

CHAPTER 14. PLANNING AND ZONING.

ARTICLE 1. SUBDIVISIONS REGULATIONS.

Sections:

14-1	Title and authority.
14-2	General provisions and intent.
14-3	Interpretation of conflicting regulations.
14-4	Definitions.
14-5	Plat approval required.
14-6	Variances.
14-7	Subdivision of land: procedures, expiration of approval, and penalty for violation.
14-8	Types of subdivision applications submitted to the Commission: requirements and processes.
14-9	Minor lot line adjustment, minor lot line elimination.
14-10	Dedication of land for mini parks, neighborhood parks, community parks, district parks, linear parks in the form of trails, and regional open space; reservation of land for public uses.
14-11	Standards and specifications.
14-12	Public improvements, improvement guarantees, development agreements, construction plans, inspections, and maintenance of dedicated improvements.
14-13	Annexation.

ARTICLE 2. CITY PLANNING, ZONING AND VARIANCE COMMISSION.

14-14	City Planning, Zoning and Variance Commission; establishment.
14-15	Powers and duties of Commission.
14-16	Adoption of master plan - Procedure.
14-17	Filing and approval of plats.
14-18	Building and improvement requirements.

ARTICLE 3. TRINIDAD METRO AREA COMPREHENSIVE MASTER PLAN.

14-19	Repealed
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ARTICLE 4. ZONING ORDINANCE.

DIVISION 1. GENERAL PROVISIONS.

14-20	Title.
14-21	Purpose.
14-22	Authority.
14-23	Definitions.

14-24	Establishment of zone districts.
14-25	Zoning map and boundaries.
14-26	General district regulations.
14-27	Uses by right, conditional uses and special uses.
14-28	Zone district classifications.
14-29	Uses not itemized.

DIVISION 2. ZONE DISTRICT REGULATIONS FOR THE O - OPEN DISTRICT.

14-30	Uses permitted by right.
14-31	Conditional uses.
14-32	Uses allowed by special permit.
14-33	Building height limit.
14-34	Area regulations.

DIVISION 3. ZONE DISTRICT REGULATIONS FOR THE RE - RESIDENTIAL ESTATE DISTRICT.

14-35	Uses permitted by right.
14-36	Conditional uses.
14-37	Building height limit.
14-38	Area regulations.

DIVISION 4. ZONE DISTRICT REGULATIONS FOR THE LDR - LOW DENSITY RESIDENTIAL DISTRICT.

14-39	Uses permitted by right.
14-40	Conditional uses.
14-41	Building height limit.
14-42	Area regulations.

DIVISION 5. ZONE DISTRICT REGULATIONS FOR THE MDR - MEDIUM DENSITY RESIDENTIAL DISTRICT.

14-43	Uses permitted by right.
14-44	Conditional uses.
14-45	Building height limit.
14-46	Area regulations.
14-47	Density regulations.

DIVISION 6. ZONE DISTRICT REGULATIONS FOR THE HDR -HIGH DENSITY RESIDENTIAL DISTRICT.

14-48	Uses permitted by right.
14-49	Conditional uses.
14-50	Building height limit.

- [14-51](#) Area regulations.
- [14-52](#) Density regulations.

DIVISION 7. ZONE DISTRICT REGULATIONS FOR THE MHR - MOBILE HOME RESIDENTIAL DISTRICT.

- [14-53](#) Uses permitted by right.
- [14-54](#) Conditional uses.
- [14-55](#) Building height limit.
- [14-56](#) Area regulations.
- [14-57](#) Design requirements.

DIVISION 8. ZONE DISTRICT REGULATIONS FOR THE NS - NEIGHBORHOOD SERVICE DISTRICT.

- [14-58](#) Uses permitted by right.
- [14-59](#) Conditional uses.
- [14-60](#) Building height limit.
- [14-61](#) Area regulations.

DIVISION 9. ZONE DISTRICT REGULATIONS FOR THE CC - COMMUNITY COMMERCIAL DISTRICT.

- [14-62](#) Uses permitted by right.
- [14-63](#) Conditional uses.
- [14-64](#) Building height limit.
- [14-65](#) Area regulations.

DIVISION 10. ZONE DISTRICT REGULATIONS FOR THE I - INDUSTRIAL DISTRICT.

- [14-66](#) Uses permitted by right.
- [14-67](#) Conditional uses.
- [14-68](#) Uses by special permit.
- [14-69](#) Building height limit.
- [14-70](#) Area regulations.
- [14-71](#) Industrial performance standards.

DIVISION 11. ZONE DISTRICT REGULATIONS FOR THE PUD - PLANNED UNIT DEVELOPMENT DISTRICT.

- [14-72](#) Purpose.
- [14-73](#) Uses permitted by right.
- [14-74](#) Conditional uses.
- [14-75](#) Maximum density, height and area regulations.
- [14-76](#) Standards and design requirements.

14-77	Procedure.
14-78	Review and approval.
14-79	Failure to meet development schedule.
14-80	Zoning review.
14-81	Completion of planned unit development.
14-82	Conformance with subdivision regulations.
14-83	Subdivision and resale.
14-84	Fees for planned unit development district application.

DIVISION 12. ZONE DISTRICT REGULATIONS FOR THE HP - CORAZON DE TRINIDAD HISTORICAL PRESERVATION DISTRICT.

14-85	Uses permitted by right.
14-86	Conditional uses.
14-87	Building height limit.
14-88	Area regulations.

DIVISION 12.1 ZONE DISTRICT REGULATIONS FOR THE HP – CORAZON DE TRINIDAD HISTORIC PRESERVATION MIXED-USE DISTRICT.

14-88.1	Purpose.
14-88.2	Definitions.
14-88.3	Uses.
14-88.4	Conditional Uses.
14-88.5	Building and Area Regulations.
14-88.6	Parking.
14-88.7	Architectural and Design Standards.
14-88.8	Historic structure preservation, restoration and rehabilitation.
14-88.9	Signage.

DIVISION 13. SIGNS.

14-89	"Signs" defined.
14-90	Exclusions from definition.
14-91	Sign definitions.
14-92	General regulations.
14-93	Measurement of signs.
14-94	Limitations based on zone district.
14-95	Limitations based on type of sign.
14-96	Nonconforming signs.
14-97	Abandoned, damages, destroyed, or hazardous signs.
14-98	Enforcement.
14-99	Exception or variance to sign regulations.

DIVISION 14. SUPPLEMENTARY REGULATIONS.

14-100	Off-street parking.
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- [14-101](#) Additional height and area regulations.
- [14-102](#) Basic consideration for conditional uses and uses by special permit.
- [14-103](#) Mini-warehouses
- [14-104](#) Nonconforming uses and structures.

DIVISION 15. ADMINISTRATION.

- [14-105](#) Enforcement.
- [14-106](#) City Planner.
- [14-107](#) Inspection.
- [14-108](#) Penalty.
- [14-109](#) Injunction.
- [14-110](#) Liability for damages.

DIVISION 16. AMENDMENTS.

- [14-111](#) Authority.
- [14-112](#) Declaration of policy and standards for rezoning.
- [14-113](#) Procedure for amendments in general.
- [14-114](#) Amendments to the Official Zoning Map.
- [14-115](#) Data to be submitted.

DIVISION 17. VARIANCE PROCEDURES.

- [14-116](#) Powers of the Commission.
- [14-117](#) Procedures.
- [14-118](#) Criteria for consideration of variance requests.
- [14-119](#) Effect of decision by the Planning, Zoning and Variance Commission.

DIVISION 18. FEES FOR ADMINISTRATION OF THE ZONING ORDINANCE.

- [14-120](#) Purpose.
- [14-121](#) Repealed.
- [14-122](#) Fees for outdoor advertising signs.
- [14-123](#) Fee for Initial Zoning Classification or Rezoning.
- [14-124](#) Repealed.
- [14-125](#) Variance fee.

DIVISION 19. LEGISLATIVE PROVISIONS.

- [14-126](#) Severability clause.
- [14-127](#) Conflict.
- [14-128](#) Interpretation.
- [14-129](#) Repeal of conflicting ordinances.

ARTICLE 5. PROTECTION OF FLOOD PLAINS.

14-130	Statutory Authorization, findings of fact, purpose and objectives.
14-131	Definitions.
14-132	General Provisions.
14-133	Administration.
14-134	Provisions for Flood Hazard Reduction.
14-135	Standards for Areas of Shallow Flooding (AO/AH Zones).
14-136	Properties Removed from the Floodplain by Fill.
14-136.1	Standards for Critical Facilities.

ARTICLE 6. BOARD OF APPEALS.

14-137	City Council designated as Board of Appeals.
14-138	Powers and duties.
14-139	Appeals from Planning, Zoning and Variance Commission - Procedure.
14-140	Appeals from orders of Building Inspector - Procedures.
14-141	Conduct of hearing.

ARTICLE 7. VESTED PROPERTY RIGHTS

14-142	Purpose
14-143	Definitions
14-144	Notice and hearing
14-145	Approval - effective date amendments
14-146	Notice of approval
14-147	Payment of costs
14-148	Other provisions unaffected
14-149	Limitations

ARTICLE 8. WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES

14-150	Findings
14-151	Purposes
14-152	Definitions
14-153	Development of Towers
14-154	Setbacks
14-155	Structural requirements
14-156	Separation or buffer requirements
14-157	Method of determining Tower height
14-158	Illumination
14-159	Exterior finish
14-160	Landscaping

14-161	Access
14-162	Stealth Design
14-163	Telecommunications Facilities on Antenna Support Structures
14-164	Modification of Towers
14-165	Certifications and inspections
14-166	Maintenance
14-167	Criteria for Site Plan Development Modifications
14-168	Abandonment
14-169	Severability
14-170	Conflicts

ARTICLE 9. SEXUALLY ORIENTED BUSINESSES.

14-171	Purpose and Intent.
14-172	Definitions.
14-173	Lighting regulations.
14-174	Location of sexually oriented businesses and design of same.
14-175	Measurement of distance.
14-176	Other locational regulations.
14-177	Stage required in adult cabaret and adult theater.
14-178	Conduct in sexually oriented business.
14-179	Employee tips.
14-180	Unlawful acts.
14-181	Exemptions.
14-182	Regulation of peep booths.
14-183	Hours of operation.
14-184	Minimum age.
14-185	Signs for sexually oriented businesses.
14-186	Right of entry.
14-187	Penalty Provision.

ARTICLE 10. SIDEWALK CAFÉ REQUIREMENTS.

[14-188](#) - [14-200](#) REPEALED (Ord. 2028, Article 10 repealed, eff. 5/12/17)

ARTICLE 11. RESIDENTIAL CULTIVATION OF MARIJUANA

14-200.1	Definitions.
14-200.2	Limits on Medical and Recreations Use in Residences.

ARTICLE 12. MEDICAL MARIJUANA AND RETAIL MARIJUANA

14-201.	Purposes, intent and other laws.
14-202.	Definitions.

<u>14-203.</u>	Licensing authority created.
<u>14-204.</u>	Composition of the Authority.
<u>14-205.</u>	Functions of the Authority.
<u>14-206.</u>	License required; term of license; renewal application; taxes.
<u>14-207.</u>	Application requirements.
<u>14-208.</u>	Denial of application.
<u>14-209.</u>	Hearings required.
<u>14-210.</u>	Transfers of Ownership; Modification of Premises.
<u>14-211.</u>	Locational criteria and numerical limit on retail marijuana stores and medical marijuana centers.
<u>14-212.</u>	Marijuana Cultivation Outdoors.
<u>14-213.</u>	Inspection of licensed premises.
<u>14-214.</u>	Fees.
<u>14-215.</u>	Prohibited acts generally.
<u>14-216.</u>	Additional operational limitations.
<u>14-217.</u>	Off-site storage facilities prohibited.
<u>14-218.</u>	Nonrenewal, suspension or revocation of license.
<u>14-219.</u>	Violations and penalties.
<u>14-220.</u>	No City liability; indemnification; no defense.

ARTICLE 13. CERTIFIED LOCAL GOVERNMENT.

<u>14-245.</u>	Historic Preservation Commission
<u>14-246.</u>	Powers, Duties and Authority of the Commission
<u>14-247.</u>	Local Historic Landmark Designation
<u>14-248.</u>	Local Historic District Designation
<u>14-249.</u>	Revocation of a Designation
<u>14-250.</u>	Landmark Alteration Certificates
<u>14-251.</u>	Criteria to review alteration certificate
<u>14-252.</u>	Non-locally Landmarked Properties on the National and/or State Historic Register
<u>14-253.</u>	Penalties and Sanctions

CHAPTER 14. PLANNING AND ZONING.

ARTICLE 1. SUBDIVISION REGULATIONS.

(Ord. 1818, eff 7/15/16)

Section 14-1. Title and authority.

These regulations shall be referred to as the "City of Trinidad Subdivision Regulations," and are enacted in accordance with the authority of the Charter of the City and applicable laws and statutes of the State of Colorado. No sketch plan, preliminary plat, or final plat of a subdivision shall be accepted or approved unless it complies with the provisions of these regulations.

Section 14-2. General provisions and intent.

The provisions of this Article, the Subdivision Regulations, shall apply to any and all development of land located within the municipal boundaries of the City of Trinidad. All layouts of proposed subdivisions located outside the City but located within the territorial limits of the City as established under the statutes of the State of Colorado shall be submitted to the City for approval, and shall be evaluated based on subdivision design, traffic, circulation, and conformity with the City's Comprehensive Plan.

No development shall be undertaken without prior and proper approval or authorization by the City pursuant to the terms of these Regulations. All development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Article.

Except as herein provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with the regulations herein specified for the district in which it is located, nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth in this Chapter.

This Article, in conjunction with the Zoning Code, establishes procedural and substantive rules for obtaining the necessary approval to develop land and construct buildings and structures. Development applications will be reviewed for compliance with the City's Comprehensive Plan and with adopted regulations, plans, policies and other guidelines.

This Article is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City of Trinidad by:

- (1) Encouraging new subdivision developments to relate to the City's historic development pattern.
- (2) Promoting compact, well-defined, stable, and sustainable neighborhoods that create a healthy living environment for the residents of the City and enhance the City's character.

- (3) Retaining or creating livable neighborhoods that foster a sense of community.
- (4) Encouraging the proper arrangement of streets and building orientation in relation to existing or planned streets and ensuring streets facilitate safe, efficient and pleasant walking, biking and driving experiences.
- (5) Providing a variety of lot sizes and housing types throughout the City.
- (6) Protecting sensitive natural and historic areas, including views of the area's geological features, and the City's environmental quality.
- (7) Ensuring that public facilities, including parks and recreational areas, are provided in accordance with the City's Comprehensive Plan.
- (8) Providing for adequate law enforcement and fire protection facilities.
- (9) Providing for an efficient, adequate and economical supply of utilities and services to land proposed for development, in order to assure that governmental costs are minimized to the greatest extent possible.
- (10) Ensuring at the time of subdivision that adequate storm drainage, sewage disposal and other utilities, services and improvements needed as a consequence of development or subdivision of land are provided.
- (11) Providing for adequate and convenient open spaces for traffic, utilities, access of fire apparatus and other emergency vehicles, recreation, light and air.
- (12) Providing for minimal light pollution.
- (13) Providing for adequate storm water management.
- (14) Providing protection from geologic hazards and flood prone areas.
- (15) Ensuring compliance with the Zoning Code, the City's Comprehensive Plan, and other plans, policies, guidelines and studies adopted by the City Council.
- (16) Regulating such other matters as the City Council may deem necessary in order to protect the best interest of the public.

Section 14-3. Interpretation of Conflicting Regulations.

Where any provision of this Article imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any other ordinance or the statutes of the State of Colorado, then the provisions of this Article shall govern.

Section 14-4. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any office referred to in this Article by title shall include the person employed or appointed for that position or his duly authorized deputy or representative. Terms, phrases or words not expressly defined in this section are to be construed in accordance with the Zoning Code or other applicable ordinance of the City, or in the absence of such ordinance in accordance with the customary usage in municipal planning and engineering practices.

(1) "**Adequate public facilities**" means those facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the City Council based upon specific levels of service.

(2) "**Alley**" means a public way which affords a secondary means of access to abutting property.

(3) "**Applicant**" means the owner of land, the owner's authorized representative, or the optionee of the land.

(4) "**Block**" means a unit of land, or a group of lots, bounded by streets or by a combination of streets and public lands, or other rights-of-way other than an alley, waterways or any barrier to the continuity of development, or land which is designated as a block on any recorded subdivision tract.

(5) "**Building**" means any permanent structure built for the shelter or enclosure of persons, animals, chattels or property of any kind, which is governed by the following characteristics:

(a) Is permanently affixed to the land.

(b) Has one (1) or more floors and a roof.

(6) "**Building code**" means the set of standards that is adopted by the City Council that must be followed in the construction and remodeling of all buildings and structures.

(7) "**Butt lots**" means lots that have rear lot lines which abut the side lot lines of other lots platted in the same block and not separated by an alley or open space.

(8) "**Collector street**" means a street which carries traffic from minor streets to the major street system, including the principal entrance streets of residential developments and the primary circulating streets within such developments.

(9) "**Commission**" means the City of Trinidad Planning, Zoning and Variance Commission.

(10) "**Common open space**" means a parcel of land, an area of water, or a combination of land and water within a site or development designed and intended primarily for the use or enjoyment of residents, occupants and property owners of the site or development.

(11) "**Comprehensive Plan**" means the master plan developed and adopted by the Commission for the growth and development of the City and its environs, including any and all elements of such plan, addressing such topics as land use, natural resources, streets and thoroughfares, public

facilities, utilities, drainage, cultural assets, parks, open space, as well as other related topics.

(12) "**Condominium**" means a unit that is available for individual sale in fee simple. Such units are contained in a multi-occupancy project which is subject to covenants and restrictions placing control over common facilities in an elected board.

(13) "**Conservation easement**" means a right of the owner of the easement to prohibit certain acts with respect to the property in order to maintain the property in a manner that will preserve its value for recreation, education, habitat, open space, or historical importance. See also §38-30.5-102 C.R.S.

(14) "**Covenants**" means a private written agreement outlining regulations specific to a development. As private restrictions, they are not enforced by the City. In the event of conflict between the covenants and this Article, this Article controls.

(15) "**Cross access**" means the construction of driveways within private property which interconnect the driveways of two (2) or more abutting nonresidential properties. Cross access provides motorists the ability to move between developments without using the roadway. Cross access reduces traffic on the roadway and reduce the potential for conflict between entering, exiting and through traffic.

(16) "**Crosswalk**" means a pathway marked off for pedestrians to cross a street.

(17) "**Cul-de-sac**" means a local street with only one outlet and having the other end for the reversal of traffic movement.

(18) "**Cultural assets**" means buildings, locations and other features considered historically or socially significant to the City.

(19) "**Dedicated land**" means land, typically for the purposes of developing parks or open space, as determined by the City Council, which is transferred to the City by platting, title, deed or other legal method approved by the City Attorney, land dedicated to another governmental entity recognized as such by the State of Colorado, or land dedicated to a homeowners or owners association, which is recognized as such by the State of Colorado.

(20) "**Design standards**" means the design requirements, standard construction details, and other standards to be followed when designing, improving, repairing, constructing or performing modifications of any kind to infrastructure.

(21) "**Detention basin**" means a man-made or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of property, into natural or manmade outlets.

(22) "**Developer**" means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

(23) "**Development**" means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into two (2) or more parcels. When appropriate in context, development shall also mean the act

of developing or to the result of development.

(a) Development shall also include:

- (I) Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
- (II) Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
- (III) Any change in use of land or a structure;
- (IV) Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;
- (V) The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
- (VI) The demolition of a structure;
- (VII) The clearing of land as an adjunct of construction;
- (VIII) The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
- (IX) The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
- (X) The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.

(b) Development shall not include:

- (I) Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
- (II) Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any traffic-generating activity;
- (III) The maintenance, renewal, improvement, or alteration of any structure, if the work does not prompt the loss of nonconformance under the provisions of Section 14-104;

(IV) The use of any land for an agricultural activity;

(V) A change in the ownership or form of ownership of any parcel or structure; or

(VI) The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

(24) "**Driveway**" means a surfaced area providing vehicular access between a public street or a private street and an off-street parking or loading area.

(25) "**Dwelling unit**" means a residential unit providing complete, independent living facilities for one (1) family, including permanent provisions for sleeping, living, cooking and sanitation. Dwelling units may be detached, attached, single-family, multi-family, sold or leased.

(26) "**Easement**" means a right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation or particular persons for specified uses.

(27) "**Environmentally sensitive areas**" means aquifer recharge areas, significant wildlife habitat and migration corridors, unique vegetation and critical plant communities, and ridge lines.

(28) "**FEMA**" means Federal Emergency Management Agency.

(29) "**Final plat**" means a complete and exact subdivision plan which has been accurately surveyed, has been prepared in accordance with this Article, and is in a form suitable to be recorded with the Las Animas County Clerk.

(30) "**Floodplain or flood hazard area**" means areas which have been designated by the U. S. Army Corps of Engineers, the Colorado Water Conservation Board or FEMA as susceptible to flooding.

(31) "**Flood prone**" means areas subject to flooding which have not been designated by the U. S. Army Corps of Engineers, the Colorado Water Conservation Board or FEMA.

(32) "**Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(33) "**Gateways**" mean designated thoroughfares, including the interstate system, state highways, and designated scenic byways, which provide vehicular access into and out of the City of Trinidad.

(34) "**Geologic hazards**" means unstable or potentially unstable slopes, undermining, faulting, landslides, rockfalls, coal mine shafts, flood, wildfire or similar naturally occurring dangerous features or soil conditions or natural features unfavorable to development.

(35) "**Grade**" means:

(a) The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the

building.

(b) The degree of rise or descent of a sloping surface.

(36) "**Grade, finished**" means the final elevation of the ground surface after development.

(37) "**Grade, natural**" means the elevation of the ground surface in its natural state, before man-made alterations.

(38) "**Historic preservation easement**" means a legal agreement that enables a historic property owner to establish certain preservation restrictions while retaining possession and use of the property. There are three general types of historic preservation easements: facade; interior space; and, development rights.

(39) "**Homeowners association,**" or "**owners association,**" means the association, incorporated or not, which has been set up to enforce the covenants and maintain all common areas and buildings for a development.

(40) "**Infill development**" means development designed to occupy scattered or vacant or undeveloped parcels of land which remain after the majority of development has occurred in an area.

(41) "**Infrastructure**" means those man-made structures which serve the common needs of the population, such as: potable water systems; wastewater disposal systems; solid waste disposal sites or retention areas; storm drainage systems; electric, gas or other utilities; bridges; roadways; bicycle paths or trails; pedestrian sidewalks, paths or trails; and transit stops.

(42) "**Inter-neighborhood connections**" means connections (such as trails and roads) between neighborhoods.

(43) "**Landowner**" means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assign of such ownership interests.

(44) "**Lot**" means a designated parcel, tract or area of land established by plat or subdivision of at least a sufficient size to meet minimum requirements for use and area in accordance with the Zoning Code, and to provide required yards and other open spaces in the zoning district in which the lot is located, and which has direct access onto a public or private street. Lots are typically contained in a block and are designated on a subdivision plat by numerical or letter identification.

(45) "**Lot, double frontage**" means lots which front on one (1) public street and back on another.

(46) "**Lot, flag**" means a lot so shaped and designed that the main building site area is set back from the street on which it fronts and includes an access strip connecting the main building site with the frontage street.

(47) "**Lot line, front**" means the property line dividing a lot from a street. On a corner lot only one (1) street line shall be considered as a front line.

- (48) **"Lot line, rear"** means the line opposite the front lot line.
- (49) **"Lot, reverse corner"** means a corner lot having its side street line substantially a continuation of the front lot line of the first lot to its rear.
- (50) **"Lot line, side"** means any lot lines other than the front lot line or rear lot line.
- (51) **"Lot size"** means the total horizontal area within the lot lines of a lot; synonymous with area of lot.
- (52) **"Lot width"** means the distance parallel to the front lot line, measured at the front building setback line. Lot width on a curving front lot line means the distance parallel to the tangent of the front lot line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- (53) **"Major street"** means a public thoroughfare, as designated on the City's thoroughfare plan, having a high degree of traffic continuity requiring a minimum width of eighty (80) feet.
- (54) **"Major subdivisions"** mean all subdivisions not classified as minor subdivisions.
- (55) **"Minor subdivisions"** mean those subdivisions consisting of either a condominium form of ownership to be located within existing buildings or those subdivisions consisting of three (3) or fewer residential lots fronting an existing public street, not involving the need for any new street or road, or the extension of municipal facilities or the creation of any public improvements, except for curb, gutter and sidewalks, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Zoning Ordinance, the City's Comprehensive Plan, or this Article.
- (56) **"Neighborhood"** means a geographical area, the focus of which are residential uses, but also may include a mixture of activities that people need to live. A neighborhood may include a diversity of housing types, schools, parks, shopping and jobs (frequently service-type), and a civic component.
- (57) **"Neighborhood Park and Recreation Improvement Fund"** means a special fund established by the City Council to retain monies contributed by developers in accordance with the "cash-in-lieu of parkland" provisions of this Article.
- (58) **"Nonresidential subdivision"** means a subdivision whose intended use is other than residential, such as commercial or industrial.
- (59) **"Off-site improvements"** mean public improvements occurring off-site that are necessary to serve the development.
- (60) **"Oversized improvements"** mean public improvements larger than necessary for the immediate development.
- (61) **"Open space"** means any land or water area with its surface open to the sky, which serves specific uses of: providing park and recreation opportunities, conserving natural areas and environmental resources, structuring urban development form, and protecting areas of agricultural,

archeological or historical significance. Open space shall not be considered synonymous with vacant or unused land but serves important urban functions. Usable open space shall exclude areas used for offstreet parking, off-street loading, service driveways and setbacks from oil and gas wells and their appurtenances, or other hazards to the public.

(62) **"Outlot"** means a measured piece of land contained within subdivided land that is not a building lot. An outlot may be conveyed to the public for open space or other public purposes, be retained by the developer for later subdivision, or be conveyed to an owners association.

(63) **"Owner"** means the person or entity that owns the property under consideration.

(64) **"Parcel"** means a tract or plot of land.

(65) **"Performance criteria"** means regulation of development based on open space ratio, impervious surface ratio, density, and floor area ratio.

(66) **"Preliminary plat"** means a map or plan of a proposed subdivision prepared in accordance with this Article, illustrating the features of the development for the review and preliminary approval of the Commission.

(67) **"Permanent monument"** means any structure of masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference.

(68) **"Phase"** means a portion of property that is being platted and engineered for development at the same time.

(69) **"Plan"** means the map(s) and supporting documentation for a development which includes but is not limited to, lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas, and conservation areas in accordance with the requirements of this Article.

(70) **"Proof of ownership"** means ownership as specified in a recorded deed, a title insurance commitment or policy, or certification of title, issued by a title insurance company licensed by the State of Colorado, which is dated less than thirty (30) days prior to the date of the application. Where the owner of the property is an entity, it must be stated who the owners/managers of the entity are, i.e., officers, directors, and shareholders of corporations, managers and members of Limited Liability Corporations (LLCs), general and limited partners for limited partnership, partners in partnerships. In instances where the applicant is not the owner of the property, an authorization from the owner for the non-owner applicant to proceed must be included with the above-referenced proof of ownership.

(71) **"Property"** means all real property subject to land use regulation by the City.

(72) **"Property line"** means the boundary of any lot, parcel or tract as the same is described in the conveyance of such property to the owner; and does not include the streets or alleys upon which the said lot, parcel or tract abuts.

(73) **"Public areas"** mean streets, parks, open spaces and other property designated or described as for public use on a map or plat of the City and fee title is vested in the City, other public body or a

special district as defined in 32-1-103 C.R.S.

(74) "**Public facilities**" means those constructed facilities, including but not limited to, transportation systems or facilities, water systems or facilities, wastewater systems or facilities, storm drainage systems or facilities, fire, police and emergency systems or facilities, electric, gas, telecommunication utilities or facilities, and publicly owned buildings or facilities.

(75) "**Public use**" means uses which are owned by and operated for the public by the City, County, state or federal governments or by school districts.

(76) "**Public utility**" means a common carrier supplying electricity, wire telephone service, natural gas, water, wastewater or storm water service or similar public services, but shall not include railroads or other forms of rail mass transit or depots or terminals supporting the same, or wireless telecommunication facilities.

(77) "**Quasi-public**" means having the nature or characteristics of being public, but owned by a private or not-for-profit entity.

(78) "**Resubdivision, or replatting,**" means the changing of any existing lot or lots, street rights-of-way or easements of a subdivision plat previously recorded with the County Clerk and Recorder.

(79) "**Retention basin**" means a pond, pool or basin used for permanent storage of water runoff.

(80) "**Right-of-way**" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

(81) "**Schedule of required copies**" means the "Schedule of Required Copies--City of Trinidad Subdivision Regulations."

(82) "**Setback**" means the required unoccupied open space between the nearest projection of a structure and the property line of the lot on which the structure is located.

(83) "**Setback, front yard**" means the distance a building or structure must be placed from the front lot line.

(84) "**Setback, rear yard**" means the distance a building or structure must be placed from the rear lot line.

(85) "**Setback, side yard**" means the distance a building or structure must be placed from the side lot line.

(86) "**Shade tree**" or "**street tree**" means a tree in a public place, street, special easement, or right-

of-way adjoining a street as provided in this Article.

(87) "**Sketch plan**" or "**conceptual plan**" means a sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of this Article.

(88) "**Shared parking**" means that parking spaces are shared by more than one user, which allows parking facilities to be used more efficiently. Shared Parking takes advantage of the fact that most parking spaces are only used part time by a particular motorist or group, and many parking facilities have a significant portion of unused spaces, with utilization patterns that follow predictable daily, weekly and annual cycles.

(89) "**Sidewalk**" means the hard surface path within the street right-of-way for use by pedestrians and/or bicyclists.

(90) "**Sight distance triangle**" means the area at the four corners of an intersection that is to be kept free of shrubs, ground covers, berms, fences, structures, or other materials or items greater than thirty (30) inches in height. Trees shall not be planted in the triangular area. The size of the sight distance triangles is determined as follows:

(a) At the intersection of any two streets or where a street intersects with an alley, a triangle measuring thirty (30) feet along each curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two.

(b) At the intersection of a driveway or private access and a street, a triangle measuring fifteen (15) feet in length along the edge of the driveway and along the curb or edge of roadway from their point of intersection, the third side being a diagonal line connecting the first two.

(91) "**Significant wildlife habitat and migration corridors**" mean areas designated by the Colorado Division of Wildlife and/or the Colorado Natural Diversity Information Source as areas of landscape that provide food, cover and water sufficient to meet the needs of a given species to survive and reproduce.

(92) "**Street, private**" means a private thoroughfare, not dedicated to public use, which provides vehicular access from a public street to more than two (2) residential dwelling units, or two (2) or more commercial or industrial buildings or parking areas.

(93) "**Street, public**" means any public thoroughfare or right-of-way, dedicated for public use, which provides vehicular access to adjacent land.

(94) "**Structure**" means anything constructed or erected.

(95) "**Subdivider or developer**" means any person, partnership, joint venture, limited liability company, association or corporation who participates as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

(96) **"Subdivision"** means the division of any lot, tract or parcel of land, by plat, map or description, whether undeveloped, vacant, or developed, into two (2) or more lots, plots or sites, or other divisions of land, for the purpose, whether immediate or future, of (a) transfer or division of ownership; (b) rental or lease; (c) building development; or, (d) redevelopment, including all changes in street or lot lines; provided, however, that divisions of land for agricultural purposes, in parcels of five (5) or more acres not involving any new street or easement of access, shall be exempted. Subdivision includes resubdivision and condominium creation or conversion.

(97) **"Tentative or conditional approval"** means an approval with recommended alterations or conditions given to a plat application by the Planning Commission. Accordingly, all recommended alterations or conditions must be met for a sketch plan application before a preliminary plat application may be submitted, all conditions must be met for a preliminary plat application before a final plat application may be submitted, and all conditions for a final plat application must be met before a final plat may be released for recordation.

(98) **"Title commitment"** means formal documentation from a title company listing the name of the owner of the property under consideration, the legal description of the property and any legal holdings on the property such as easements, rights-of-way or liens.

(99) **"Title report"** means a report prepared and executed by a title company authorized to do business in the State of Colorado certifying the true owner of the property and describing all encumbrances of record which affect the property.

(100) **"Traffic Impact Study"** means a report analyzing anticipated roadway conditions and addressing such related areas as access and circulation, within and outside of a development.

(101) **"Trail"** means a linear feature, or corridor, constructed for the purposes of providing access to/from residential and nonresidential uses, access to the City's cultural assets, and recreational opportunities to pedestrians and bicyclists.

(102) **"Trip"** means a single or one-way vehicle movement to or from a property or study area. "Trips" can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

(103) **"USGS datum"** means United States Geological Survey basis of elevations.

(104) **"Undeveloped land"** means land that has never been developed.

(105) **"Vacant land"** means land that was previously developed, but no longer in use.

(106) **"Viewshed protection"** means to minimize the impact of man-made structures and grading on the ridges of hills, mesas, mountains, open spaces, and similar natural features, when within view from public rights-of-way.

(107) **"Walkway"** means:

- (a) A right-of-way dedicated to public use that is not within a street right-of-way, to facilitate

pedestrian access through a subdivision block by means of a hard surface path.

(b) Any portion of a parking area restricted to the exclusive use of pedestrian travel.

Section 14-5. Plat approval required.

(1) It shall be unlawful for any person to subdivide any tract, lot or parcel of land within the City or its planning area unless and until a final plat of such subdivision has been approved in accordance with the terms of this Article. Unless and until a final plat, plan or replat of a subdivision shall have been first approved in the manner provided in this chapter by the City Council, it shall be unlawful for any person to construct or cause to be constructed any street, utility facility, building, structure or other improvement on any lot, tract or parcel of land within such subdivision except as specifically permitted in this Article.

(2) No permit shall be issued by the City for the construction or repair of any structure on a lot or tract in a subdivision for which a final plat has not been approved by the City Council and filed for record, except as specifically allowed in this chapter. No permit shall be issued by the City for the construction or repair of any structure on a lot or tract in a subdivision in which the permanent public improvements have not been approved and accepted by the City.

(3) The City shall not repair, maintain, install or provide any street or public utility service, or authorize the sale or supply of water or sewer service, in any subdivision for which a final plat has not been approved by the City Council and filed for record. The City shall not repair, maintain, install or provide any street or public utility service, or authorize the sale or supply of water or sewage service, in any subdivision in which the permanent public improvements have not been approved and accepted by the City.

Section 14-6. Variances.

(1) The rules and regulations provided in this Article or incorporated herein are the minimum standards and requirements of the City. Upon application by the developer, a variance from any such rule or regulation may be granted by the Commission upon a good and sufficient showing by the developer that:

(a) There are special circumstances or conditions affecting the property in question;

(b) Enforcement of the provisions of this chapter will deprive the applicant of a substantial property right; and

(c) If a variance is granted it will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity.

(2) The application for a variance shall be made on a form prescribed by the City, and shall specifically identify the provision of this Article from which a variance is sought and the specific circumstances and conditions which the applicant believes will support and justify the granting of such variance. If more than one variance is sought, each shall be specifically identified in the

application and the specific circumstances and conditions justifying each request shall be provided with the application. Each and every application for a variance shall be decided solely and entirely on its own merits, and the disposition of any prior or pending application for a variance shall not be allowed to enter into or affect any decision on the application in question. Pecuniary interests shall not be considered as a basis for the granting of a variance.

(3) No application for a variance will be considered unless submitted, in writing, no later than the date the application for final plat approval is submitted. An application for a variance must be accompanied by a nonrefundable application fee in the amount specified in the schedule of fees for the City. Multiple copies of the application for variance shall be provided in accordance with the schedule of required copies.

Section 14-7. Subdivision of land: procedures, expiration of approval, and penalty for violation.

(1) Before creating a subdivision, as defined by the provisions of this Article, a subdivider shall:

(a) File an application with the Planning, Zoning and Variance Commission to subdivide in accordance with the provisions contained in this section. Such applications shall consist of no fewer than the number of copies required in the schedule of required copies maintained by the City Planning Department, and shall be submitted no later than twenty (20) business days before a scheduled meeting of the Commission. Applications shall be examined for completeness within three (3) business days of their submittal to the City Planning Director. This initial examination period may be extended for a specified period of time if the City Planning Director deems it necessary and notifies the applicant of such extension before the end of the initial examination period. Applications may be rejected as incomplete and returned to the subdivider with an explanation before the end of the examination period(s). Once deemed complete, applications shall be processed and reviewed by City staff prior to consideration by the Commission. Notice of consideration of such applications by the Commission and the City Council shall be sent to abutting property owners and advertised in a newspaper of general circulation in the City of Trinidad a minimum of one time at least ten (10) days prior to such considerations. The Commission shall, within fifteen (15) days from the date of the next regular meeting following such filing, forward its recommendations for approval, tentative or conditional approval or disapproval to the City Council. A subdivider is expected to meet all conditions of approval issued by the Commission, where applicable, prior to City Council consideration. The City Council shall review the application at its next available meeting, and shall either approve, with or without conditions, deny the application, or postpone its consideration as needed.

(b) Except as provided herein, file all preliminary plat applications associated with an approved sketch plan within a one (1) year after receiving approval from the City Council for the sketch plan. The City Council may, upon receipt of a written request from the subdivider, extend this term of approval for any time period not to exceed an additional one (1) year.

If a subdivider fulfills all conditions of approval adopted by the City Council for a final plat or plats covering a portion of a sketch plan area prior to its expiration date, the remainder of the sketch plan shall be valid for a period of two (2) years from the date on which its original approval was granted. If a subdivider fulfills all conditions of approval adopted by the City

Council for approval of additional preliminary plat or plats covering another portion of the sketch plan area within the last 12 months immediately prior to expiration of the two-year period from the date on which the original sketch plan approval was granted, the plan shall be valid for a third year or upon expiration of the final or preliminary plat, whichever is later.

The extension policy may continue as long as platting activity is continued within one (1) year after successive anniversaries of the original sketch plan approval. Notwithstanding the foregoing, the City Council may, in its discretion, extend such period of validity for an additional term to be fixed by the City Council. Revised sketch plans may be required as deemed necessary by the Planning, Zoning and Variance Commission or the City Council.

(c) After obtaining approval of a preliminary plat application from the City Council, a subdivider shall file a final plat application with the Planning, Zoning and Variance Commission no later than one (1) year after receiving approval from the City Council.

(d) Following final approval by the City Council, the approved final plat and associated restrictive covenants may be recorded with the Las Animas County Clerk in compliance with State statutes and in a form acceptable to the County. Approval of the final plat by the City Council shall be null and void if the plat is not recorded within 180 days after the date of approval. The City Council may, upon receipt of a written request from the subdivider, extend this term of approval for any time period not to exceed an additional 180 days.

(e) A subdivider shall not record or attempt to record a plat with the County Clerk until such plat has received approval by the City Council and all required City signatures have been affixed to the plat. Platting will not be considered complete until the subdivider has furnished the City with sufficient copies of the recorded plat and associated documents, including restrictive covenants.

(2) Restrictive Covenants, Deed Restrictions. The City of Trinidad shall have the right to confer with the subdivider regarding the type and character of the development that will be permitted in the subdivision and may require certain minimum regulations be incorporated in the subdivision and/or restrictive covenants or deed restrictions. The intent of such regulations is to protect the character and value of the development within the subdivisions and to protect the value of surrounding properties.

(3) Penalty for violation. Whoever shall violate any of the provisions of this Article shall upon conviction be fined not more than three hundred dollars (\$300.00) for each offense, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Section 14-8. Types of subdivision applications submitted to the Commission: requirements and processes.

(1) General Requirements.

(a) All maps and supporting documentation included in subdivision applications submitted to the City of Trinidad shall be prepared in a clear and legible manner by a professional land surveyor licensed in the State of Colorado or by a professional engineer registered in the

State of Colorado. Plat maps shall be prepared in the following sizes: Full size - twenty-four (24) inches high by thirty-six (36) inches wide; and, Reduced size (not required to be to scale) - eight and one-half (8 1/2) inches high and eleven (11) inches wide. Maps shall include:

- (I) The title of proposed subdivision, the date of preparation, and the total acreage.
- (II) The names and addresses of the property owner, the developer, and the person who prepared the survey and land design.
- (III) A vicinity map, drawn to a scale, and depicting major streets, subdivisions, watercourses and significant physical features within no less than one-quarter mile of the boundaries of the subdivision area.
- (IV) A statement or certificate, in separate writing, executed by the person who prepared the plat map, which certifies that all existing easements, rights-of-way, and significant topographical features on the proposed subdivision are fully shown and accurately identified on the face of the map, and further stating whether the map being submitted includes all of the contiguous land which the subdivider owns directly or indirectly, or has a legal or beneficial interest in, or whether the subdivider owns or has a legal interest in any adjacent property.
- (V) The boundary of the proposed subdivision, locations of existing and proposed roadways, and shall include existing and proposed land uses.
- (VI) Orientation to the north and a north arrow.
- (VII) The average lot size and the proposed density for residential developments.
- (VIII) Any land existing or proposed as dedication of park land, open space, rights-of-way, and easements, including their uses, owners, and area dimensions.
- (IX) Locations of existing buildings and structures, including fences, within the proposed subdivision, including their current uses and their future status within the proposed subdivision.
- (X) Any unique historical, archeological, scenic or other noteworthy features within or in proximity to the proposed subdivision.
- (XI) Adjacent properties identified by property owner, subdivision name, and zoning district.

(b) Appropriate zoning must be in place before subdivision commences. The subdivider is responsible for ensuring that adequate area is available within all lots and tracts to meet the minimum requirements for the applicable zoning district.

(c) Access, in accordance with state statutes, shall be provided to all lots or tracts.

(d) Parcels not contiguous shall not be included in one (1) plat, nor shall more than one (1)

plat be made on the same sheet. Contiguous parcels owned by different parties may be included on one (1) plat, provided that all owners join in the dedication and acknowledgment.

(e) All subdivision applications shall include the following:

(I) A completed application form as provided by the City Planning Department.

(II) Payment of the applicable fee as adopted by the City Council.

(III) Proof of ownership as required by the provisions of Section 14-4.

(IV) An accurate legal description for the proposed subdivision that includes an enumeration of the total acreage of the proposed subdivision. If a metes and bounds description is prepared, such must be signed and sealed.

(V) A list of property owners and their mailing addresses of properties located within 100 feet, minus public rights-of-way, of the proposed subdivision.

(VI) A list of any lienholders, subsurface mineral interests in the proposed subdivision and their lessees, if any, and their mailing addresses.

(VII) Any variance application to the City's Subdivision Ordinance.

(VIII) Documentation attesting that all past and current ad valorem taxes due to all applicable taxing entities are paid up-to-date.

(2) Major Subdivisions

(a) Major Subdivision Requirements and Process. In addition to the requirements set forth herein, requirements and processes for major subdivisions consist of the following:

(I) Sketch Plan.

(A) Specific requirements. A sketch plan application is required only if a developer plans to submit multiple preliminary plat applications for a development.

The City shall evaluate the applicant's sketch plan application in accordance with the following criteria: The land use mix within the project conforms to the City's Zoning District Map, Future Land Use Plan, and availability of public services and furthers the goals and policies of the City's Comprehensive Plan including: That utilities and services are available to adequately serve the development; That the proposed development promotes the City's historic small town character; That proposed residential development adds diversity to the City's housing supply; That proposed commercial development will benefit the City's economic base; That parks, trails and open space are incorporated into the site design; That the proposed project protects the City's environmental quality; and, That the proposed development enhances the City's cultural, historical, educational and/or

human service opportunities.

The sketch plan application package shall also include:

(i) A preliminary utility plan with calculations.

(ii) Sketch Plan Map - The sketch plan map shall show the proposed development in relation to land uses in the surrounding area (one [1] mile radius around the property). At a minimum, the map shall provide the following information:

1. Graphics drawn to scale (not greater than 1" = 200', unless a smaller scale has been approved by the City Planning Director) on full size maps.

2. Major existing and proposed streets (show and label street names, if applicable).

3. Existing utility lines and utility easements, and preliminary connections, and information regarding the availability of utilities and public safety facilities.

4. Location(s) of local and regional recreational/open space/trails.

5. Locations and areas of major arroyos, ditches, rivers and other bodies of water, including any known, identified or designated 100-year flood plains and any other natural hazards within and adjacent to the proposed development.

6. Locations and areas of major canyons, hills, ridges, mesas, buttes, and other natural physical and geological features within and adjacent to the proposed development.

7. Geologic hazards and soils reports.

8. Topographic information indicating the directions of surface water flow, and a preliminary drainage plan, noting all areas with a slope in excess of 20%.

9. A wildfire mitigation plan, if determined by the City to be required.

10. A traffic impact study, if determined by the City to be required.

(B) Process. The sketch plan review/consideration process is as follows:

(i) Pre-Application Conference with City staff.

(ii) Application Submittal.

(iii) City staff determines that the application is complete or not complete. If deemed complete, staff starts processing the application.

(iv) City staff schedules the public hearing and completes the public notification process.

(v) Staff reviews the application and prepares comments.

(vi) The applicant meets with City staff and responds to staff's comments.

(vii) Planning Commission Public Hearing and Recommendation.

(viii) Applicant Meets Planning Commission Conditions.

(ix) City Council Public Hearing and Action.

(x) The applicant addresses the City Council's conditions, if sketch plan was approved, and meets all conditions before submitting any preliminary plat applications.

(II) Preliminary Plat

(A) Requirements. A preliminary plat application may be submitted in lieu of a sketch plan application if one preliminary plat application is submitted for the entire development. A preliminary plat application may also be submitted concurrently with a sketch plan application, at the applicant's risk, if subsequent preliminary plats are planned for a development.

The preliminary plat application package shall also include:

(i) An acknowledgement that notice of the subdivision was provided to all utility companies, whether public or private, the applicable school district(s), and, as applicable, any special district(s). Such notices shall contain the statement of the intent to subdivide, the intended use of the property within the subdivision, a copy of the preliminary plat map, and a referral to direct comments to the City prior to the date of the Commission's consideration.

(ii) A preliminary grading and drainage plan and report with calculations. The proposed drainage system shall be indicated by a single line drawing showing the proposed direction sheet flow through the subdivision. Detention analysis and calculations, where required, shall be submitted.

(iii) A master utility plan prepared by a registered professional

engineer. Proposed locations of utility infrastructure, including water, sanitary sewer, and storm sewer, approved by the City, shall be submitted.

(iv) Preliminary construction plans for public improvements.

(v) A copy of the proposed restrictive covenants and architectural design guidelines. Restrictive covenants shall address the maintenance and funding of maintenance of any private roadways and driveways, and private park land, recreational amenities and open space.

(vi) A wildfire mitigation plan, a traffic impact study, a geologic hazards report, and a soils report, if not submitted previously with a sketch plan application, and as determined to be required by the City.

(vii) A preliminary landscape plan.

(vii) At the discretion of the City Council, an applicant may be required to provide the City with a Colorado Historical Society records listing historically or archaeologically significant findings on the property being subdivided. If a listing shows a significant finding, a site-specific historic survey will be required of the applicant. The survey shall provide the following information:

1. Site identification:
 - a. State site number;
 - b. Site address;
 - c. Site location/access;
 - d. Type and description of finding; and,
 - e. Owner's name and address.
2. Eligibility assessment for historic designation.
3. Statement of significance.
4. Management and administrative data:
 - a. References;
 - b. Photographs of the site;
 - c. Maps of the site;
 - d. Name, address, phone number and qualifications of person completing the survey; and
 - e. Date of completion of the survey.

If, in coordination with the subdivider, the City Council decides to protect an historic resource, a protection plan must be prepared by the subdivider. (viii) Preliminary Plat Map - The preliminary plat map shall show the proposed development in relation to land uses in the surrounding area (one-quarter [0.25] mile radius around the property). At a minimum, the map shall provide the following information:

1. Graphics drawn to scale (not greater than 1" = 100', unless a smaller scale has been approved by the City Planning Director) on full size maps.
2. The plat shall be drawn with heavy lines to indicate the subdivision area, with overall survey dimensions and bearings. Lines outside the plat boundary shall be drawn as dash lines. An accurate location of the subdivision shall be provided by reference to an established survey or section corner, subdivision corner, or other known point.
3. Accurate existing contours at intervals of two (2) feet or less; except that intervals of five (5) feet will be acceptable for very rough topography. The contours shall be extended onto adjacent property a sufficient distance to establish proper topographical relationships (contours shall be based on USGS datum and tied to the City's coordinate system).
4. Lots, blocks, and street layout with approximate dimensions and square footage of each lot.
5. Consecutive numbering of all lots and blocks, and a lot and street layout indicating scaled dimensions.
6. Existing and proposed rights-of-way and easements on and within 100 feet of the plat.
7. Existing and proposed street names for all streets on and adjacent to the property. Indication of any private streets.
8. Location and dimensions of existing and proposed sewer lines, water lines and fire hydrants, gas lines, electric service lines, street lights, telephone and cable lines, fiber optic lines, and similar utilities located within the plat and within 100 feet of the plat.
9. Existing and proposed curb cuts on and adjacent to subject property.
10. Location by field survey or aerial photography of existing and proposed water courses and bodies of water such as rivers, arroyos, creeks, irrigation ditches and lakes, with the direction of flow indicated.
11. Floodplain boundary with source of information indicated, including FEMA map number and effective map date and zone. If a floodplain does not exist, this must be indicated on the plat.

12. Proposed grading including approximate street grades.
13. Approximate radii of all street curves.
14. Location, function, ownership and manner of maintenance of any private park land or open space.
15. Land Use Table - The table shall include: land uses, approximate acreage of each land use, and percentage of each land use.
16. Total number of lots, blocks, and tracts.
17. Number of each type of dwelling unit proposed.
18. Dimensions of building setback lines.
19. Indication of existing easements and/or previously recorded plats requested to be vacated.
20. Means of providing vehicular access to adjoining properties.

(B) Process. The preliminary plat review/consideration process is as follows:

- (i) Pre-Application Conference with City staff.
- (ii) Application Submittal.
- (iii) City staff determines that the application is complete or not complete. If deemed complete, staff starts processing the application.
- (iv) City staff schedules the public hearing and completes the public notification process.
- (v) Staff reviews the application and prepares comments.
- (vi) The applicant meets with City staff and responds to staff's comments.
- (vii) Planning Commission review and consideration/action.
- (viii) Applicant Meets Planning Commission Conditions.
- (ix) City Council Public Hearing and Action.
- (x) The applicant addresses the City Council's conditions, if preliminary plat was approved, and meets all conditions before submitting any final plat applications.

(III) Final Plat

(A) Requirements. All conditions on the preliminary plat application must be met prior to the submittal of a final plat application. The final plat application package shall also include:

- (i) A final grading plan and final drainage plan or report.
- (ii) A copy of the final draft restrictive covenants and architectural design guidelines, ready for filing. Restrictive covenants shall include the maintenance and funding of maintenance of any private roadways and driveways, and private park land, recreational amenities and open space.
- (iii) Final construction plans for public improvements.
- (iv) A final landscape plan.
- (v) As required by the City Council, a Historic Protection Plan.

(vi) Final Plat Map - The final plat map shall show the proposed development in relation to land uses in the surrounding area (one-quarter [0.25] mile radius around the property). At a minimum, the map shall provide the following information:

1. Graphics drawn to scale (not greater than 1" = 100', unless a smaller scale has been approved by the City Planning Director) on full size maps.
2. Basis for establishing bearing.
3. Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.
4. Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.
5. Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.
6. Location and description of monuments.
7. The plat shall be drawn with heavy lines to indicate the subdivision area, with overall survey dimensions and bearings. Lines outside the plat boundary shall be drawn as gray-scaled

dash lines.

8. Lots, blocks, and street layout with exact dimensions and square footage of each lot.

9. Consecutive numbering of all lots and blocks, and a lot and street layout indicating scaled dimensions.

10. Existing and planned rights-of-way and easements, with dimensions, within the plat and within 100 feet of the plat.

11. Existing and planned street names for all streets within and adjacent to the plat. Designate any private streets.

12. Total number of lots, blocks, tracts in the title block.

13. Designation of entity responsible for common areas. The legal entity responsible for the maintenance of any building, park, recreational area, open space, equipment, pool or private driveway which is to be owned and shared by the owners of real property in the proposed subdivision shall be designated by appropriate articles of incorporation, contracts, restrictions or other method. The means of securing payment for maintenance and operating expenses and any method of terminating such obligation shall be stated in the creating documents. If such entity is responsible for the maintenance of driveways, park areas, recreational areas or open spaces, the following note shall be indicated on the face of the plat: "The City of Trinidad, Colorado, shall not be responsible for maintenance of driveways, park areas, recreational areas, and open spaces; and, the _____ Homeowners' / Property Owners' Association shall be responsible for such maintenance of driveways, park areas, recreational areas and open spaces."

14. Proof of adequate, suitable access must be provided and clearly indicated on the face of the plat. If access is not directly gained from public right-of-way, a separate access easement must be provided and referenced on the plat.

15. Indication of existing easements and/or previously recorded plats requested to be vacated.

16. Dedication statements as plat notes: Statements of land to be dedicated to the City for parks, public streets and alleys, and grants of easements.

17. Sidewalks, curb and gutter. Unless otherwise approved by the City Council, the following plat note shall be indicated:

"Sidewalks, curb and gutter shall be installed along all streets In accordance with subsection 17-43 of the Code of Ordinances of the City of Trinidad, Colorado."

18. Development of area subject to code: A statement that development of the plat is subject to the Code of Ordinances of the City of Trinidad, Colorado.

19. Statement of performance guarantee regarding public improvements. The following plat note shall be indicated: "The development shall comply with the provisions of subsection 14-12 of the Code of Ordinances of the City of Trinidad, Colorado."

20. Certificate blocks for notarized signatures of owner, lienholders, preparer, and City approvals, as applicable. The signature of the mortgagee, if any, consenting to the execution of the plat and any dedications is required.

21. Certifications showing that all taxes and special assessments due on the plat have been paid in full.

(B) Process. The final plat review/consideration process is as follows:

- (i) Pre-Application Conference with City staff.
- (ii) Application Submittal.
- (iii) City staff determines that the application is complete or not complete. If deemed complete, staff starts processing the application.
- (iv) City staff schedules the public hearings and completes the public notification process.
- (v) Staff reviews the application and prepares comments.
- (vi) The applicant meets with City staff and responds to staff's comments.
- (vii) Planning Commission Public Hearing and Recommendation.
- (viii) Applicant Meets Planning Commission Conditions.
- (ix) City Council Public Hearing and Action.
- (x) The applicant addresses the City Council's conditions, if plat was approved.
- (xi) The applicant records the Final Plat when all conditions have been

met.

(xii) The applicant submits copies of recorded documents to the City before submitting any construction permit applications.

(3) Minor Subdivisions.

(a) Requirements. In addition to the requirements set forth in subsection 14-8(1), applications for minor subdivisions must also meet the requirements for minor subdivisions as set forth in subsection 14-4. The minor subdivision plat application package shall also include:

(I) A completed application form as provided by the City Planning Department.

(II) Payment of the applicable fee as adopted by the City Council.

(III) General Development Information - Provide a written description addressing how the proposed development complies with the City's Land Use Code and the City's Comprehensive Plan.

(IV) An acknowledgement that notice of the subdivision was provided to all utility companies, whether public or private, the applicable school district(s), and any special district(s). Such notices shall contain the statement of the intent to subdivide, the intended use of the property within the subdivision, a copy of the plat map, and a referral to direct comments to the City prior to the date of the Commission's consideration.

(V) A copy of the final draft restrictive covenants and architectural design guidelines, ready for filing, if applicable.

(VI) The minor subdivision plat shall provide the following information:

(i) Graphics drawn to scale (not greater than 1"=100', unless a smaller scale has been approved by the City Planning Director) on full size maps.

(ii) Basis for establishing bearing.

(iii) Bearings, distances and curve data of all perimeter boundary lines shall be indicated outside the boundary line, not inside, with the lot dimensions.

(iv) Lengths shall be shown to the nearest hundredth of a foot and bearings shall be shown in degrees, minutes and seconds.

(v) Existing contours at two (2) foot intervals.

(vi) Existing and proposed curb cuts within and adjacent to the plat.

(vii) The perimeter survey description of the proposed subdivision shall include at least one (1) tie to an existing section monument of record and a

description of monuments. The survey shown shall not have a closure error greater than one (1) part in ten thousand (10,000).

(viii) Bearings, distances, chords, radii, central angles and tangent links for the perimeter and all lots, blocks, rights-of-way and easements.

(ix) Lot and block numbers, numbered in consecutive order, and square footage of each lot or tract.

(x) Excepted parcels from inclusion noted as "not included in this subdivision" and the boundary completely indicated by bearings and distances.

(xi) Location and dimensions of planned utility easements required for the plat's development and approved by the City.

(xii) Indication of existing easements requested to be vacated.

(xiii) Location and description of monuments.

(xiv) Floodplain boundary with a note regarding source of information (if a floodplain does not exist on the property, please state this on the plat).

(xv) Locations of existing streets and their names for all streets adjacent to the plat.

(xvi) Location and dimensions of existing and planned sewer lines, water lines and fire hydrants, gas lines, electric service lines, street lights, telephone and cable lines, fiber optic lines, and similar utilities located within the property and within 100 feet of the property.

(xvii) Total number of lots, blocks, tracts in the title block.

(xviii) Designation of entity responsible for common areas. The legal entity responsible for the maintenance of any building, park, recreational area, open space, equipment, pool or private driveway which is to be owned and shared by the owners of real property in the proposed subdivision shall be designated by appropriate articles of incorporation, contracts, restrictions or other method. The means of securing payment for maintenance and operating expenses and any method of terminating such obligation shall be stated in the creating documents. If such entity is responsible for the maintenance of driveways, park areas, recreational areas or open spaces, the following note shall be indicated on the face of the plat: "The City of Trinidad, Colorado, shall not be responsible for maintenance of driveways, park areas, recreational areas, and open spaces; and, the _____ Homeowners' / Property Owners' Association shall be responsible for such maintenance of driveways, park areas, recreational areas and open spaces."

(xix) Dedication statements as plat notes: Statements of land to be dedicated

to the City for parks, public streets and alleys, and grants of easements.

(xx) Sidewalks, curb and gutter. Unless otherwise approved by the City Council, the following plat note shall be indicated: "Sidewalks, curb and gutter shall be installed along all streets in accordance with subsection 17-43 of the Code of Ordinances of the City of Trinidad, Colorado."

(xxi) Development of plat subject to code: A statement that development of the plat is subject to the Code of Ordinances of the City of Trinidad, Colorado.

(xxii) Certificate blocks for notarized signatures of owner, lienholders, preparer, and City approvals, as applicable. The signature of the mortgagee, if any, consenting to the execution of the plat and any dedications is required.

(xxiii) Certifications showing that all taxes and special assessments due on the plat have been paid in full.

(xxiv) Certificate blocks for notarized signatures of owner, lienholders, preparer, and City approvals, as applicable.

(xxv) Certifications showing that all taxes and special assessments due on the plat have been paid in full.

(b) Process. The minor subdivision review/consideration process is as follows:

(I) Pre-Application Conference with City staff.

(II) Application Submittal.

(III) City staff determines that the application is complete or not complete. If deemed complete, staff starts processing the application.

(IV) City staff schedules the public hearings and completes the public notification process.

(V) City staff reviews the application and prepares comments.

(VI) The applicant meets with City staff and responds to staff's comments.

(VII) Planning Commission Public Hearing and Recommendation.

(VIII) City Council consideration and action.

(IX) If approved, the Applicant addresses the City Council's conditions before recording the Minor Subdivision Plat with the County.

(4) Minor amendments to recorded plats. Minor amendments which are filed with the County Clerk and Recorder to correct minor survey or drafting errors on a recorded plat shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land

surveyor licensed with the State of Colorado. All affidavits or corrected plats indicating minor amendments shall be reviewed and approved by the City administratively. However, substantial changes shall require approval of a new plat by the City Council after the Commission has considered a recommendation. Written notice of all minor amendments to recorded plats shall be provided to the Commission and the City Council.

(5) Resubdivision of land or changes to a recorded plat. Except as provided herein, the resubdivision of land or changes to a recorded plat shall be considered a subdivision, and it shall comply with this Article except that the City may require that the subdivider to start with the submission of a preliminary plat or a final plat application. The determination shall be based on the extent to which the proposal differs in density and/or intensity from the recorded plat.

Section 14-9. Minor lot line adjustment, minor lot line elimination.

(1) Minor lot line adjustment.

(a) Purpose. The purpose of the lot line adjustment is to allow administrative review of minor adjustment to legally subdivided lots and building envelopes.

(b) Applicability. The City Planning Director shall be authorized to grant lot line adjustments that meet all of the following conditions:

(I) The adjustment shall affect only two (2) adjacent lots or building envelopes. No new parcels, lots or building envelopes shall be created.

(II) The lot line adjustment shall comply with all other applicable requirements of this Code, including development standards.

(III) The adjustment shall not cause either of the two (2) adjacent lots or building envelopes to shift to a new zoning district.

(IV) The adjustment shall not diminish in size parks, open space, or other protected environments.

(V) The use of a lot line adjustment shall be limited to one time by the affected lots or building envelopes. Additional adjustments shall be considered a resubdivision and shall be subject to the provisions of subsection 14-8.

(c) Submittal requirements. All requests for approval of a lot line adjustment shall contain all items listed in this subsection unless specifically waived by the City Planning Director on the grounds that such information is not required to accurately determine the impacts of the adjustment.

(I) Application form. A completed application form as provided by the City Planning Director.

(II) Fee. Payment of the applicable fee as adopted by the City Council.

(III) Proof of ownership. Proof of ownership as required by the provisions of Section 14-4.

(IV) Final plat plan. A final plat plan with the following format and information:

(A) Format. The final plat plan shall be prepared in full size - twenty-four (24) inches high by thirty-six (36) inches wide.

(B) Contents. The final plat plan shall contain the information required for final plats in this Article, and any additional information as determined necessary by the City Planning Director.

(d) Criteria for approval.

(I) Conformity with the Code. The proposed lot line adjustment substantially conforms to all applicable requirements of the City's Code of Ordinances, including area standards of the zone district(s) in which it is located, as modified by any PUD or variance for the property.

(II) Conformance with other applicable regulations. The proposed lot line adjustment conforms to any other applicable regulations and requirements including but not limited to provisions of state law, the City's Code of Ordinances, and any requirements set by any capital improvement plan or program, or any approved subdivision improvements agreement or development agreement for the property.

(III) Compatibility with surrounding area. The proposed lot line adjustment shall be compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area.

(e) Term effect of approval.

(I) Approval of a lot line adjustment shall be final when the City Planning Director's signature has been affixed on the final plat.

(II) A lot line adjustments must have an approved final plat recorded with the county clerk and recorder within ninety (90) days of approval or the approval shall be considered null and void.

(III) Lot line adjustments shall run with the land unless and until amended.

(2) Minor lot line elimination.

(a) Purpose. The purpose of a lot line elimination is to allow administrative review to remove interior lot lines of a parcel comprised of two (2) or more separate lots with contiguous ownership.

(b) Applicability. The City Planning Director shall be authorized to grant lot line eliminations which meet all of the following conditions:

(I) The elimination shall affect five (5) or less lots. Lot line eliminations that affect more than five (5) lots shall be processed in accordance with the final plat section of this Article.

(II) Lot line eliminations shall comply with all other applicable requirements of this Code.

(c) Submittal requirements. All requests for approval of a lot line elimination shall contain all of the items listed in this subsection unless specifically waived by the City Planning Director on the grounds that such information is not required to accurately determine the impacts of the elimination.

(I) Application form. A completed application form as provided by the City Planning Department.

(II) Fee. Payment of the appropriate fee as adopted by the City Council.

(III) Proof of ownership. Proof of ownership as required by the provisions of Section 14-4.

(IV) Site plan. A site plan with the following format and information shall be submitted:

(A) Format. The site plan shall be prepared in full size - twenty-four (24) inches high by thirty-six (36) inches wide pages in standard final plat format.

(B) Contents. All site plans shall contain the information required for final plats in accordance with this Article, and any additional information as determined necessary by the City Planning Director.

(C) Additional submittals. The City Planning Director may require additional materials if he/she determines that such materials are necessary to evaluate potential project impacts.

(d) Criteria for approval.

(I) Conformity with the Code. The proposed lot line elimination conforms to all applicable requirements of the City's Code of Ordinances, including the dimensional standards of the zone district(s) in which it is located, as modified by any PUD or variance for the property.

(II) Conformance with other applicable regulations. The proposed lot line elimination conforms to any other applicable regulations and requirements including but not limited to provisions of state law, the City's Code of Ordinances, and any requirements set by any capital improvement plan or program, or any approved subdivision improvements agreement or development agreement for the property.

(III) Compatibility with surrounding area. The proposed lot line elimination shall be compatible with the character of existing land uses in the area and shall not adversely affect the future development of the surrounding area.

(e) Term effect of approval.

(I) Approval of a lot line elimination shall be final when the City Planning Director's signature has been affixed on the document to be filed with Las Animas County.

(II) A lot line elimination must be recorded with the county clerk and recorder within ninety (90) days of approval or the approval shall be considered null and void.

(III) Lot line eliminations shall run with the land unless and until amended.

Sec. 14-10. Dedication of land for mini parks, neighborhood parks, community parks, district parks, linear parks in the form of trails, and regional open space; reservation of land for public uses.

(1) Purpose of land dedication requirements.

(a) This section is adopted to provide recreational areas in the form of mini parks, neighborhood parks, community parks, district parks, linear parks in the form of trails, and regional open space as a function of subdivision and site development in the City of Trinidad. This section is enacted in accordance with the home rule powers of the City of Trinidad, granted under the Colorado Constitution, and the statutes of the State of Colorado. This section is administered in a manner consistent with the City's Comprehensive Plan and with adopted regulations, plans, policies and other guidelines.

The primary cost of parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities. All park land dedication proposals involving land areas shall also include park amenity development plans that require the approval of the City Council. Construction of approved amenities, including their associated costs, shall be the responsibility of the developer. Native and drought-tolerant vegetation, in addition to subsurface irrigation systems to sustain newly installed plant life, shall be constructed in such areas.

It is hereby declared by the City Council that recreational areas in the form of mini parks, neighborhood parks, community parks, district parks, linear parks in the form of trails, and regional open space are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property or subdivisions, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on previously developed land. (Ord. 1881, amended, eff 5/1/09)

(b) Types of parks.

(I) "Mini parks" provide places within walking distance of a neighborhood for supervised play for young children and unstructured activities for residents. Mini

parks are less than two (2) acres in size, and are located within 1/4 mile of the residents that they serve. At a minimum, a mini park shall include live ground cover and trees, plus one of the following: playground equipment, contemplative garden or other active or passive recreation opportunities for the neighborhood. Notwithstanding other requirements in this section, developers will be expected to provide a minimum of one 1-acre mini park per 200 dwelling units in central locations to the dwellings they are to serve.

(II) "Neighborhood parks" are places for recreation and social gatherings, typically 2-5 acres in size, which are located within ½ mile of the residents that are to be served. At a minimum, a neighborhood park shall include a multiple-use lawn area, a picnic area, playground equipment, landscaping, lighting, signage, access to trails, and/or community gardens, plus at least one of the following: a pavilion or a court game facility.

(III) "Community parks" are places for recreation, typically larger than 5 acres in size, which serve the residents of more than one neighborhood. Community parks are located within two (2) miles of the residents that are to be served, and are located on or near arterial streets at the edge of residential areas or in nonresidential areas to minimize the impact of organized recreational activities such as those that require lighted competition fields. At a minimum, a community park shall include an indoor recreation center, indoor or outdoor swimming pools, competitive and practice ball courts and fields, skateparks, and/or skating and hockey rinks, as well as landscaped areas, lighting, signage, trail access, restrooms, and off-street parking areas.

(IV) "District parks" are places for recreation that serve the residents of the entire City, as well as people who may live outside of the community. These parks are typically located to take advantage of special natural settings, including lakes, forests, and geological features, including but not limited to ridgelines, mesas and mountains. At a minimum, a district park shall contain campsites, a lake with canoe/kayak/boat ramps, restrooms, educational signage, and off-street parking.

(V) "Linear parks in the form of trails" provide recreational opportunities and access that connect neighborhoods, parks, schools, businesses, open spaces, community facilities and neighboring areas located outside of the City. The construction of trails within such facilities, in accordance with City standards, shall be required for developers to receive credit as park land. The construction of amenities, including exercise stations, water fountains, and educational signage, where appropriate and practical along trails, shall be required.

(VI) "Regional open space" includes natural areas, natural area buffer zones, areas of geological, archeological or historical significance, floodplains, wetlands, subsidence areas, and agricultural preservation areas. Access to and within such areas is generally limited to unpaved trails. Amenities such as educational signage, water stations, and off-street parking shall be provided in these parks.

(2) Park land dedication required; manner of dedication.

(a) Land dedication. Whenever a final plat is filed of record with the County Clerk and

Recorder of Las Animas County for development of a residential area in accordance with this Article, such plat shall contain a clear fee simple dedication of an area of land to the City for park purposes, which area shall equal no less than 1,000 square feet of area per each proposed dwelling unit. Any proposed sketch plan and/or preliminary plat submitted to the City for approval shall indicate the location of land area proposed to be dedicated under this section. Except as provided herein, all park land dedication proposals shall be approved by the City Council.

(I) Land areas not requiring additional subdivision that have not yet fulfilled the park land requirement, shall meet the provisions of this section through payment of a fee in lieu of land dedication per dwelling unit, which is based upon a fee schedule specifically established and adopted by the City Council by resolution to promote infill development and affordable housing in the City. Such fees must be paid before a building permit will be issued for the following: upon the construction of a new residential dwelling unit, upon the relocation of an existing residential dwelling unit, or upon the reconstruction and/or the refurbishment of a previously uninhabitable residential dwelling unit; or upon the reconstruction and/or refurbishment of a previously non-residential use into a residential dwelling unit.

(A) This fee shall be administratively collected on a one-time basis per dwelling unit and shall not require any appraisals or City Council action on individual applications.

(B) Upon application by an individual property owner, the City Council may on a case-by-case basis reduce the amount of the fee, postpone its payment, or waive its payment.

(C) The fee schedule shall be reviewed annually beginning in January, 2008, by the City Manager and any necessary changes will be made by resolution of the City Council.

(b) Acceptance of drainage areas. Drainage areas may be accepted as part of a public park land dedication if the channel is constructed in accordance with City requirements; and provided the City determines that the land is appropriate for park use; and provided no significant area of the park is cut off from access by such channel.

(c) Alternatives to land dedication. Pursuant to the provisions of this section, the required park land dedication may be alternatively met by a payment of money in lieu of land and/or the provision of private park land.

(d) Minimum acreage. In instances where an area of less than two (2) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within 60 days following approval of the preliminary plat after consideration by the Commission. If the City determines that sufficient park area already is in the public domain in the area of the proposed development, or if the recreation potential for that area would be better served by expanding or improving existing parks, then the proposed dedication will be disallowed and the developer shall be required to make payment of cash in lieu of land as provided by subsection 3 of this section.

(e) Method of dedication. The dedication required by this section shall be made by filing of

the final plat or by separate instrument at the City's election.

(f) Additional dedication required. If the actual number of completed dwelling units exceeds the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by subsection 3(c) of this section, or by the conveyance of additional land by amendment of plat or by separate instrument.

(g) Access. Each park facility must have access to those it is to serve, most typically by a street, trail, and/or sidewalk.

(3) Cash payment in lieu of dedication of land for new subdivisions.

(a) Cash payment alternative. Subject to City Council approval, a developer responsible for dedication under this section may elect to meet the requirements of subsection 2 of this section in whole or in part by a cash payment in lieu of land, in the amount set forth in this section. Such payment in lieu of land shall be made at or prior to the time of final plat approval; provided that the final plat includes the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Trinidad, Colorado, for construction within the subdivision until such time as the payment of money in lieu of park land required under the provisions of the Code of Ordinances of the City of Trinidad, Colorado, has been submitted to and accepted by the City." If the developer places this notation upon the final recorded plat of the subdivision in lieu of making the payment of money in lieu of park land, the City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as the payment in lieu of park land required by subsection 3 of this section is submitted to and accepted by the City.

(b) Park land purchased by the City in anticipation of development. The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land, the City may elect to have subsequent park land dedications for that area be in cash only, and calculated to reimburse the City's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (a) the average price per acre of such land, and (b) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the City Manager.

(c) Amount of cash payment. To the extent that subsection 3(b) of this section is not applicable, the dedication requirement shall be met by a payment of cash in lieu of land. Cash payments may be used only for acquisition or improvement of parks located in proximity as to adequately serve the residents of such development. The payment shall comply with the following requirements unless otherwise provided for by this Code:

(I) Payment shall be based on the requirements set forth in subsection 2(a) and shall be based on the fair market value of the entire property as it is valued after platting and shall include the value of the construction of adjacent streets and utilities required to serve park land.

(II) The value of the land shall be based upon an appraisal by a competent, independent appraiser selected by the City, whose costs are reimbursed to the City by

the applicant. The suitability of the land to be dedicated for public purposes and the credit to be given toward the land dedication requirement is at the City's sole option and discretion. The City Manager may waive the requirement of an appraisal where the owner/developer provides sufficient documentation evidencing the land's fair market value.

(III) Combination of land dedication and cash-in-lieu:

(A) The applicant, at the option of the City Council, may meet the dedication requirements through a combination of cash-in-lieu and land dedication in those cases where a portion of the dedication of land is not desired.

(B) The value of the combination of both the land dedication and the cash-in-lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.

(4) Provision of private park land in lieu of dedication of land.

(a) Amount of credit. Subject to City Council approval, a developer responsible for dedication under this section may elect to meet up to 100 percent of the requirements of subsection 2 of this section by the provision of private park land.

(b) Suitability. Any land dedicated to the City or provided as private park land under this section must be appropriate for park and recreation purposes. The City reserves the right to reject any land which it deems as unsuitable for such purposes.

(c) Accessibility and development. The land offered as private park land must be open and accessible to all residents of the platted subdivision. Land or facilities which are excluded to a portion of the subdivision residents will not be considered as private park land meeting the requirements of this section.

(d) Type of private dedication.

(I) Unencumbered. Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private park land at full credit. Land which has recreational facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, etc., will also qualify for full credit.

(II) Encumbered. Land which has the following type of encumbrances may be used to satisfy the private park land option on the basis of partial credits as recited herein:

(A) Land encumbered by easements, detention ponds and detention areas, arroyos, drainage channel borders, or other similar characteristics will qualify for private park land on the basis of one-half credit.

(B) Except as provided herein, land which is generally undeveloped and unsuitable for organized recreational activities without substantial

development effort, but that does provide desirable aesthetic qualities, such as wetlands and other wooded areas, will qualify for private park land on the basis of one-quarter credit.

Land areas consisting of ridges on the tops of hills, mesas, mountains, and similar geological features, and having minimum elevations of 6,250 feet shall qualify for private park land on the basis of full credit. Lakes shall also qualify for private park land on the basis of full credit.

(III) Limit on encumbered land. Not more than 50 percent of the private park land provision may be satisfied with land possessing the encumbrances set forth as qualifying for partial credit in this subsection.

(e) Responsibility for maintenance. Maintenance responsibility for areas offered as private park land must be identified with the submission of a preliminary plat. Private park land and open space shall be owned and maintained by a homeowners' association or landowner.

(f) Areas less than one-quarter acre. Land offered for private park land credit which is less than one-quarter acre in size is generally discouraged unless it is an integral part of the park, recreational and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one-quarter acre in size shall be submitted with the preliminary plat.

(5) Disposition of funds paid in lieu of dedication of land.

(a) Special fund established. There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this section, which fund shall be known as the park land dedication fund.

(b) Accounting; expenditures; refunds. The City shall account for all sums paid in lieu of land dedication under this section with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition or development of a park as defined in this section. Such funds shall be considered to be spent on a first in, first out basis for each area of the City. If not so expended, then on the last day of such period the then-current owners of the property for which money was paid in lieu of land dedication shall be entitled to a pro rata refund of such sum, computed on a square footage basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

(6) Administration.

(a) Review of proposals. Unless provided otherwise in this section, an action by the City shall be by the City Council, after consideration of the recommendations of the Planning, Zoning and Variance Commission.

Sec. 14-11. Standards and Specifications.

No preliminary or final plat shall be approved by the City, and no permit shall be issued for construction of any improvement intended for public use or for the use of purchasers or owners of lots or tracts within the subdivision, and no improvement intended for public use shall be accepted by the City, unless such subdivision and public improvements comply with the standards and specifications in this subsection. Minimum standards for surveying and engineering in the preparation of maps and plans submitted to the City shall be based on the requirements of the State of Colorado and on the accepted best practices for the applicable profession.

(1) General Site Considerations.

(a) The future character and environment of the City will be greatly affected by the design of subdivisions and plats that are approved by the City. Planning, layout and design of a subdivision are of utmost concern. Residents must have available to them within their neighborhoods, safe and convenient access and movement to points of destination or collection. Modes of travel to achieve this objective should be varied and should not conflict with each other or abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours, protect views, and provide privacy of residents and protection from adverse noise, lighting and vehicular traffic. Natural features and vegetation of the area should be preserved. Schools, parks, churches and other community facilities should be planned as integral parts of neighborhoods.

(b) All portions of a tract being subdivided, unless otherwise permitted, shall be designed as lots, streets, planned open spaces, or other uses to avoid creation of vacant landlocked spaces. The design of subdivisions shall provide for efficient traffic flow, proper mixing of land uses, and a logical link between nearby existing developments, and the proposed subdivision. The City's Comprehensive Plan is to be used as a guide in determining if the design of a proposed subdivision is proper. The City Council shall have the authority to deny a plat or to request a redesign, if, in accordance with the Comprehensive Plan and any other adopted plans or policies, the proposed layout is not suitable for the site, or if the development of the subdivision would be premature.

(c) Subdivisions and land developments shall be designed to prevent excessive erosion by the forces of wind and/or water, and shall be laid out so as to avoid the necessity for excessive cut and fill.

(d) Whenever possible, developers shall preserve trees and other vegetation, waterways such as creeks and arroyos, viewsheds and scenic points, cultural and historic sites and resources, and other local assets and landmarks.

(e) Where feasible, conservation of energy through the use of solar and wind systems in accordance with federal guidelines is encouraged.

(f) Drainage areas, whenever possible, should be left in a natural state and no encroachments shall be made on the natural channel area. Drainage designs of subdivisions shall be engineered using accepted best management practices, and so as to not increase historic drainage patterns or flows off site.

(g) Any land subject to flooding shall be platted in accordance with any applicable floodplain ordinances, statutes and/or laws. The following should be indicated as a plat note,

where applicable: "Homebuilders are required to provide a floodplain elevation certificate prior to or with a building permit application. All plans and specs are required to meet FEMA guidelines for flood mitigation." Land subject to flooding or other hazards to life, health, or property, and land deemed to be unsuitable from the standpoint of geology, soil conditions, or topography, shall not be platted for residential occupancy or other such purposes as may increase danger to health, life, or property, not aggravate erosion or flood hazard, unless such hazards are properly mitigated through the subdivision planning process as provided in this Article.

(h) Where a subdivision borders a railroad right-of-way or principal arterial street, design of the subdivision shall include adequate provisions for the reduction of noise.

(i) Except as provided herein, all subdivisions shall have frontage on and direct access to a public right-of-way. In the interest of public safety and for the preservation of the traffic-carrying capacity of the street system, the City Council shall have the right to restrict and regulate points of access to all property from the public street system.

(2) Blocks.

(a) General standards. The length, width and shape of blocks shall be determined with due regard to:

(I) The provision of adequate building sites suitable to the specific needs of the type of use contemplated.

(II) Requirements as to lot sizes and dimensions.

(III) Need for convenient access, circulation, control and safety of street traffic.

(IV) The limitations or opportunities of the topography of the subdivision.

(V) The limitations and characteristics of the soil and slope relative to the requirements for the installation of utilities.

(b) Length, width and shape.

(I) Blocks should not exceed 1,320 feet in length unless topographic conditions or other physical constraints justify a longer length. In general, blocks should not be less than 300 feet in length.

(II) Blocks should be designed so as to provide two (2) tiers of lots.

(III) Blocks may be irregular in shape, provided they are harmonious with the overall pattern of blocks in a proposed subdivision.

(3) Lots.

(a) Lots shall meet all applicable zoning requirements.

(b) Corner lots for residential use shall have extra width to permit appropriate building setback from an orientation to both streets.

(c) Lots should be designed, as far as possible, with side lines being at right angles or radial to any adjacent street right-of-way line.

(d) Except to accommodate drainage in easements, minimal grades shall be maintained along lot lines.

(e) Double-frontage lots shall be prohibited in residential areas except where essential to provide separation from principal arterial streets or from incompatible land uses. A landscape buffer located in an easement or a tract dedicated for such of at least twenty (20) feet in width and across which there will be no vehicular right of access, may be required along the lot line of lots abutting such traffic artery or other incompatible uses.

(f) Each lot shall have vehicular access to a public or private street, as approved by the City Council.

(g) Prior to recording the final plat, all boundary, block and lot corners shall be marked by iron monuments no smaller than 5/8 inch in diameter with suitable caps and statue markings and 2 feet in length, driven into the ground flush with the existing ground surface.

(4) Easements.

(a) Public utility easements. Though it is preferable to locate public utilities within public rights-of-way, easements may be required to locate facilities necessary to provide water, electrical power, natural gas, telephone, cable television and sanitary sewer services. Storm sewers or open drainageways must not be constructed within utility easements unless specifically approved by the City.

(b) Drainage easements. Any required drainage easements must be located and dedicated to accommodate the drainage requirements for the property within the subdivision boundaries and within the natural watershed in conformance with the City's Comprehensive Plan and the requirements of the City. Drainage easements along proposed or existing open channels shall provide sufficient width for the required channel and such additional width as may be required for maintenance and adequate slopes necessary along the bank of the channel. Drainage easements shall also be provided for emergency overflow drainageways of sufficient width to contain within the easement stormwater resulting from a 100-year frequency storm event less the amount of stormwater carried in any enclosed drainage system. The needed width of drainage easements shall be substantiated by a drainage study and drainage calculations or other criteria submitted to and approved by the City.

(c) Floodway easements. Floodway easements may be required along natural drainageways and lakes or reservoirs. Floodway easements shall encompass all areas beneath the water surface elevation resulting from a 100-year frequency storm, plus such additional width as may be required to provide ingress and egress to allow maintenance of the banks and for the protection of adjacent property.

(d) Restrictions on use of drainage and floodway easements. A suitable note on the

subdivision plat must restrict all properties within the subdivision to ensure that drainage and floodway easements within the plat boundary shall be kept clear of fences, buildings, plantings and other obstructions to the operations and maintenance of the drainage facility, and abutting properties shall not be permitted to drain directly into such easements except by means of a drainage structure approved by the City.

(e) Easements created prior to subdivision. All easements created prior to the subdivision of any tract of land must be shown on a subdivision plat of the land with appropriate notations indicating the name of the owner of such easement, the purpose of the easement, the facilities contained therein, the dimensions of the easement tied to all adjacent lot lines, street rights-of-way and plat boundaries, and the recording reference to the instruments creating and establishing the easement. In those instances where easements have not been defined by accurate survey dimensions, the subdivider should request the owner of such easement to accurately define its limits and the location of the easement through the property within the plat boundaries. If the holder of such undefined easement does not define the easement involved and certifies his refusal to define such easement to the City, the subdivision plat must provide adequate information as to the centerline of the location of all existing facilities placed in accordance with the easement holder's rights. Except for historic preservation easements, building setback lines must be established at least 30 feet from and parallel to the boundary of the easement. The subdivider shall obtain from the holder of any private easement within the plat to be crossed by proposed streets or other public easements an instrument granting to the public the use and benefit of the private easement for the construction, operation and maintenance of such public streets and easements. This instrument shall be delivered to the City at the time the final plat application is submitted for review. The subdivider shall also furnish the City with a letter from the holder of the private easement stating that arrangements for any required adjustments to pipelines, electrical transmission lines or other similar facilities have been made to the satisfaction of the holder of the easement.

(5) The following improvements shall be constructed by developers unless waived by the City Council:

- (a) Road grading and surfacing.
- (b) Curbs and gutters.
- (c) Street lights.
- (d) Sidewalks.
- (e) Sanitary sewer collection system.
- (f) Storm sewers or storm drainage system, as required.
- (g) Potable water distribution including fire hydrants.
- (h) Utility distribution system for parks and open space.
- (i) Street signs at all street intersections.

- (j) Permanent reference monuments and monument boxes.
- (k) Underground telephone, cable, electricity and gas lines.
- (l) Berms or fencing along major arterial streets.
- (m) Underdrains.
- (n) Required floodway improvements.
- (o) Required irrigation ditch improvements.

(6) Minimum standards for public improvements. No final plat shall be approved without receiving a statement from the City Engineer certifying that the improvements described in the subdivider's plans and specifications, together with agreements, meet the minimum requirements of all ordinances of the City and, as established by the City Engineer, that they comply with the following minimum standards:

(a) Streets and alleys.

(I) All streets in subdivisions shall be paved and shall be designed and constructed in accordance with City requirements. The right-of-way shall be graded to provide suitable finish grades for utilities, pavement, sidewalks and planting strips, with adequate surface drainage and convenient access to the lots. The street system pattern proposed in any subdivision must comply with the provisions of this Article and other applicable provisions of the City's Code of Ordinances, and shall:

(A) Be designed to be logically related to topography so as to produce reasonable grades, satisfactory drainage, suitable building sites, and provide for horizontal sight distances on all curves depending on design speed.

(B) Provide for adequate vehicular access to all properties within the proposed subdivision plat boundaries.

(C) Provide adequate street connections to adjacent properties to ensure adequate traffic circulation within the general area.

(D) Provide a local street system serving properties to be developed for residential purposes which discourages through traffic while maintaining sufficient access and traffic movement for convenient circulation within the subdivision and access by fire, police and other emergency services.

(E) Provide a sufficient number of continuous streets and major thoroughfares, particularly in those areas designated for the development of high density multiple-family residential, commercial and industrial land uses, to accommodate the increased traffic demands generated by these land uses.

(F) When necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued and shall be at least as wide as such

existing streets in alignment therewith. When conditions permit, centerline offsets should be at least 125 feet. Greater centerline offsets may be required by the City when necessary for traffic safety. Where a proposed subdivision is adjacent to or at the end of an existing street which will afford primary or significant access to the proposed subdivision and is determined by the City Engineer, in accordance with traffic engineering principles and practice, to be of inadequate design or construction, the developer will be required to improve, reconstruct, widen or make any other alterations to the existing street as deemed necessary by the City in order to provide appropriate and safe access to the subdivision.

(G) Where adjoining areas are not subdivided, the City may require the arrangement of streets in the subdivision to make provision for the proper projection of streets into such unsubdivided areas.

(H) Street intersections shall be as nearly at right angles as practical giving due regard to terrain, topography, sight distances and safety.

(II) Grades of streets shall not be in excess of five percent (5%) on major or collector streets, nor in excess of eight percent (8%) on other streets.

(III) All proposed subdivisions of greater than sixteen (16) residential dwelling units or greater than 25,000 square feet of gross floor area for nonresidential subdivisions shall submit a traffic impact study with the preliminary plat application. Such traffic impact study shall demonstrate that the proposed subdivision will not create traffic conditions that result in a level of service (LOS) that fails to meet the standards set forth in subparagraph (A) below.

(A) The street system within the proposed subdivision shall provide LOS "A" on all proposed streets and at all proposed intersections, and shall be adequate to maintain current LOS's on all existing abutting streets and intersections. The Planning, Zoning and Variance Commission shall not forward a positive recommendation, and the City Council shall not approve any subdivision that fails to meet this standard unless the subdivider provides traffic mitigation measures that will maintain or improve the current LOS on such adjacent streets and intersections.

(B) A traffic impact study shall be prepared by a professional traffic engineer, and shall contain the following additional requirements:

(i) An inventory of existing conditions within one (1) mile of the proposed subdivision including: roadway network and traffic control; existing traffic volumes in terms of peak hours and average daily traffic (ADT); planned roadway improvements; and, intersection levels of service.

(ii) Projected site-generated traffic volumes in terms of: peak hours and ADT; approach/departure distribution including method of determination; site traffic volumes on roadways; and, comparison of

existing conditions to proposed site generation.

(iii) An analysis of future traffic conditions including: future design year (development fully completed); combined volumes (site traffic plus future roadway traffic); and, intersection levels of service.

(iv) A description and schematic plan of recommended access and on-site circulation.

(v) A description of proposed on-site and/or off-site mitigation measures necessary to meet the LOS standard set forth herein.

(vi) Any other information deemed necessary by the City Engineer.

(IV) The design of the pavement section shall be performed by a registered professional engineer based upon a geotechnical evaluation of the site and the pavement design procedures presented in the "AASHTO Guide for Design of Pavement Structures." The pavement shall be designed with a twenty (20) year design life.

(V) Street jogs should be avoided on all streets.

(VI) Curbs and gutters on minor residential streets shall be concrete of the integral type B unit, not less than thirty inches (30") in overall width, and not less than six inches (6") thick where curb abuts the street pavement.

(VII) Storm water inlets and catch basins of adequate size and spacing shall be provided within the roadway improvement at points specified by the stormwater design prepared by a professional engineer and approved by the City Engineer.

(VIII) All curb corners shall have a radius of not less than fifteen feet (15') and at intersections involving collector or major streets of not less than twenty-five feet (25').

(IX) Except as approved by the City Council, all streets within the corporate limits of the City, other than State or County highways, shall be improved with pavement bounded by integral curbs and gutters to an overall width in accordance with the following minimum dimensions:

Type of Street	Dedicated Right-of-Way Width	Pavement Width (including gutter)
Major Collector & Arterials	Conform to thoroughfare plan	Conform to thoroughfare plan
Minor Collector	60 feet	40 feet or more; Less than 40 feet requires City approval in advance

Cul-de-sac & Local	60 feet	36 feet or more; Less than 36 feet requires City approval in advance
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(X) Arrangement and layout of thoroughfares.

(A) Location and alignment. The location and alignment of designated thoroughfare shall be in conformance with the thoroughfare plan of the city.

(B) Right-of-way width. The width of the right-of-way to be dedicated for any designated thoroughfare shall be in conformance with the City's thoroughfare plan. In those instances where the proposed subdivision is located contiguous to an existing thoroughfare having a right-of-way less than that required by the thoroughfare plan, sufficient additional right-of-way must be dedicated to bring the right-of-way width in conformance with the thoroughfare plan. In all cases the minimum right-of-way width required for the development of a designated thoroughfare must be of sufficient width to accommodate the approved roadway pavement and drainage and utility facilities.

(C) Curves and intersections. Curves proposed for the right-of-way of designated thoroughfares shall be in conformance with AASHTO guidelines and accepted best engineering practices.

(XI) Buffering and traffic separation requirements for thoroughfares. Where a subdivision abuts or contains an existing or proposed thoroughfare, the City may require marginal access streets, reverse frontage with screening by landscaping and berming contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford a separation of through and local traffic. If landscaping or berming is used as a buffer between the thoroughfare and residential property uses, the subdivider shall provide a minimum 20-foot landscape buffer in an easement or in a tract dedicated for such purposes along the thoroughfare.

(XII) Arrangement and layout of streets, other than thoroughfares.

(A) Location and alignment. The location and alignment of streets must be in conformance with the City's thoroughfare plan.

(B) Right-of-way width. The width of the right-of-way to be dedicated for any designated or proposed street shall be in conformance with the provisions of subsection 14-11 6(a)I. In those instances where the proposed subdivision is located contiguous to an existing street having a right-of-way less than that required by the thoroughfare plan, sufficient additional right-of-way must be dedicated to bring the right-of-way in conformance with the City's thoroughfare plan. The minimum right-of-way width required for the development of a designated or proposed street must be of sufficient width to accommodate the approved roadway pavement and drainage and utility

facilities.

(C) Curves and intersections. Curves proposed for the right-of-way of designated streets shall be in conformance with AASHTO guidelines and accepted best engineering practices.

(XIII) Cul-de-sacs, dead-end streets and stub streets.

(A) Length of cul-de-sac. The length of all cul-de-sacs shall not exceed 500 feet, unless topographic conditions warrant a longer length.

(B) Radius of cul-de-sac. The radius of the right-of-way for all cul-de-sacs shall not be less than sixty (60) feet.

(C) Drainage of a cul-de-sac. Drainage of a cul-de-sac shall preferably be toward the open end.

(D) Dead-end streets. Dead-end streets shall be prohibited, except as stubs, to permit future extensions into adjoining tracts or when designed as circular cul-de-sac turnarounds.

(E) Stub streets. Stub streets, greater in length than one (1) lot length, shall be paved to the full width of the right-of-way for the last fifty (50) feet of their length.

(XIV) Private streets.

(A) Private streets may be permitted by the City Council if it determines that the use of private streets will preserve the aesthetic environmental qualities of the subdivision while providing property owners with a safe, functional and lasting means of access. The design and approval of any private streets shall promote driver and pedestrian safety by improving movement along streets and ingress and egress for properties adjacent

thereto. Generally, as the widths of streets and vehicular speeds increase, the number of private street connections thereto should decrease.

(B) Private streets shall be designed in accordance with traffic engineering principles and practices as applied to existing and anticipated conditions, particularly the land uses to be served and the configuration of the thoroughfare itself.

(C) Private streets shall meet all requirements contained in this Article for public streets. Adequate space shall be provided in the private street right-of-way for easements for the location and maintenance of utilities.

(D) A note shall be included on the plat that provides that the maintenance of private streets shall be the responsibility of the applicable homeowners' or property owners' association, and that assessments for such maintenance shall

be addressed in the association's deed restrictions, protective covenants, or covenants, conditions and restrictions.

(XV) Partial or half streets.

Partial or half streets may be dedicated in those instances where the City concurs that it is necessary for the proper development of the land and in the public interest to locate a public street right-of-way. The City will not approve a partial or half street dedication within a subdivision dedicating less than a 60-foot right-of-way width. Appropriate notations must be placed upon the plat restricting access from any partial or half streets so dedicated to adjacent acreage tracts until the adjacent property is subdivided in a recorded plat and the additional adjacent right-of-way is acquired providing the full right-of-way as specified in this Article.

(XVI) Alleys.

(A) General arrangement and layout. Alleys may be provided within a subdivision plat to provide secondary vehicular access to lots which otherwise have their primary access from an adjacent street. Alleys may not be used or designed to provide the principal access to any tract of land.

(B) Right-of-way width; intersections and curves. Alleys must have a right-of-way width of at least sixteen (16) feet. Alleys must intersect with streets.

(C) Dead-end alleys. No dead-end alley or cul-de-sac alley shall be permitted.

(XVII) Driveway approaches. Driveway approaches shall be provided in accordance with the driveway approach standards of the State of Colorado.

(XVIII) Driveways. Driveways shall be constructed with minimal grades or slopes.

(XIX) Shared access, driveways and parking facilities for nonresidential tracts.

(A) All off-street parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete or similar materials.

(B) Where feasible, parking lots of nonresidential uses shall share access drives with adjacent property.

(C) Off-street parking areas shall be designed so that vehicles may exit without backing onto a public street unless no other practical alternative is available.

(D) Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility or other structure.

(E) When there are opportunities to support parking demand through shared

off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreements may be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

(F) Circulation areas shall be designed to facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.

(G) Unless otherwise approved by the City, all plats for commercial and/or industrial tracts shall provide for shared access and parking facilities, and the plat shall contain a note on it to that effect.

(XX) Street lighting, naming, signage, and traffic signals.

(A) Street lighting. The City shall install streetlights at the developer's expense. To minimize light pollution, street lights shall only be installed at street intersections, street dead-ends, or in cul-de-sacs.

(B) Street naming and signage. Streets that are in alignment with other already existing and named streets shall bear the names of the existing streets. Otherwise, new street names should not be similar to existing street names located in or adjacent to the City as to cause confusion to drivers of public safety vehicles. Developers shall be responsible for the costs of purchasing and installing street signs at intersections in their subdivisions in accordance with City standards.

(C) Addressing, U. S. Postal Requirements. Upon plat recordation and prior to the submittal of building permit applications, developers shall coordinate the addressing of lots with the City Planning Department and the local postmaster. Cluster mailbox units required for new subdivisions shall not be located within a residential lot, but shall be located within a centrally-located parcel owned and maintained by the homeowners association, and shall have vehicular and/or pedestrian access.

(D) Traffic signs and signals. Developers shall be required to provide and install all traffic signage and signalization determined by the City to be necessary because of the construction of the subdivision. All signs and signals shall be provided and placed in accordance with City standards and shall be erected prior to the acceptance of streets by the City. Developers shall be responsible for upgrading existing signals, equipment, and facilities to accommodate their development.

(XXI) Fire lane. Fire lanes shall be required where deemed necessary by the City to protect an area during the period of development and after development. If required after development, a fire lane easement shall be dedicated and marked as such in accordance with applicable fire codes, so that it is to remain free of obstructions and provide access at all times.

(XXII) Sidewalks, trails, and multi-use pathways.

(A) The intent of the standards for sidewalks, multi-use pathways and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles and pedestrians.

(B) A sidewalk network that interconnects all dwelling units with other dwelling units, non-residential uses, and common open space shall be provided throughout each development. Trails and sidewalks may be combined as multi-use pathways.

(C) Sidewalks shall be constructed along both sides of streets in and adjacent to a subdivision, and shall be constructed to be separate and distinct from motor vehicle circulation to the greatest extent possible. Adjacent property owners shall be responsible for the maintenance of such sidewalks. A minimum one foot (1') separation shall be provided between a sidewalk and curb. When permitted by the City Engineer, combination curb, gutter and sidewalk will be allowed.

(D) The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping and other street furniture where deemed appropriate by the City. Pavement markings, separators, signage, fencing and landscaping may also be required where necessary to promote circulation, screening, buffering and safety.

(E) Sidewalks, trails and multi-use pathways shall be located within the right-of-way unless otherwise authorized by the City Council.

(F) Sidewalks, trails and multi-use pathways shall be constructed of concrete, but may also include accents of brick, slate, and/or colored/textured concrete pavers, that are compatible with the style, materials, colors, and detail of the surrounding buildings. Asphalt shall not be used for sidewalks, trails or multi-use pathways.

(G) Sidewalks and related improvements shall be installed or constructed by the subdivider in accordance with plans and specifications approved by the City and, after installation or construction; they shall be subject to inspection and approval by the City. All required improvements shall be completed in accordance with the officially established grades.

(H) Sidewalks, trails or multi-use pathways shall be provided between and within residential neighborhoods, nonresidential areas, open space areas, parks, schools, and other community facilities.

(I) Sidewalks shall be a minimum of five (5) feet in width. Trails shall be a minimum of eight (8) feet in width. Multi-use pathways shall be a minimum of ten (10) feet in width.

(XXIII) Utilities.

(I) Sewers.

(A) Sanitary sewers.

(i) All residential, commercial and industrial uses located within the City's corporate boundaries which have human occupancy shall either have sanitary sewer served by the City, or a sewer system that has been specifically approved for the site by the City.

(ii) The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built.

(iii) Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development.

(iv) Plans and specifications of any proposed sewer system or treatment plant in accordance with the requirements of the City shall be submitted and approved by the City prior to the commencement of such construction.

(v) The locations and dimensions of existing sanitary sewer lines, and plans and profiles of proposed sanitary sewer lines, indicating depths and grades of lines, shall be indicated on construction plans submitted to the City for review and approval.

(vi) Pretreatment of industrial discharge into the City's sewage collection system or treatment plant shall be required if, in the opinion of the appropriate utility superintendent, the concentration of such discharge results in shock loading or contains elements untreatable by normal City treatment methods.

1. Storm sewers.

a. Storm sewers shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and be connected to an adequate outfall.

b. The storm water drainage system shall be separate and independent of the sanitary sewer system.

c. All street widths and grades shall be indicated on construction plans submitted to the City, with runoff figures indicated on the outlet and inlet side of all drainage ditches and storm sewers and at all points in the street or storm sewer drainage ditch, and with proposed locations of all drainage easements indicated.

d. When a drainage channel, retention/detention facility or storm sewer is proposed, completed plans, profiles and specifications signed and sealed by a professional engineer shall be submitted showing complete construction details. Such plans require City approval.

(II) Potable Water.

(A) All residential, commercial and industrial uses located within the City's corporate boundaries, which have human occupancy, shall have potable water served by the City.

(B) The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

(C) The location and size of existing water lines and fire hydrants, plans and profiles of all proposed water lines and fire hydrants showing depths and grades of the lines, and detail design information of proposed water lines and fire hydrants shall be indicated on construction plans in accordance with the requirements of the City. Such plans shall be submitted and approved by the City prior to the commencement of such construction.

(III) Electricity.

(A) All residential, commercial and industrial uses located within the City's corporate boundaries, which have human occupancy, shall have electric service provided for in accordance with City standards and policies.

(B) The electric system shall be of sufficient size and design to supply power to each structure or lot upon which a structure is to be built.

(C) The location and size of existing power lines, plans and profiles of all proposed power lines, and detail design information of proposed power lines shall be indicated on construction plans in accordance with the requirements of the City. Such plans shall be submitted and approved by the City prior to the commencement of such construction.

(IV) Gas.

(A) All uses located within the City's corporate boundaries may elect to have gas service. If elected, gas shall be provided by the City.

(B) The gas system shall be of sufficient size and design to supply gas to each structure or lot upon which a structure is to be built.

(C) The location and size of existing gas lines, plans and profiles of all proposed gas lines, and detail design information of proposed gas lines shall be indicated on construction plans in accordance with the requirements of the City. Such plans shall be submitted and approved by the City prior to the commencement of such construction.

(V) Fire hydrants. The subdivider shall install fire hydrants at street intersections and at other points as required by the City to meet adopted fire codes.

(VI) Underground utilities. The City may require that utilities to be located within a subdivision be placed underground.

(VII) Flood prevention. No subdivision of land shall be approved unless the subdivision complies with all applicable ordinances, statutes and federal law pertaining to flood prevention. All subdivisions shall comply with the flood prevention provisions of Sections 14-130 through 14-134.

(A) It shall be unlawful for any person, due to excavation, fill work or grading, to impede, obstruct or otherwise divert the natural flow of surface waters on adjoining properties, or to cause surface waters on adjoining properties, or to cause surface waters to drain over and across adjoining property contrary to existing natural runoff and flow, without written permission to allow such in perpetuity from the owner of such adjoining tract.

(B) It shall be the responsibility of the owner, builder, developer, design engineer and architect to examine the property under construction and adjoining tracts prior to and during periods of construction and to provide such drainage facilities, at appropriate times, to ensure proper on-site and off-site drainage.

(C) When a tract or parcel of land is graded to a level that is higher or lower than the natural grade of adjacent property, or graded in any manner which may alter the natural flow of waters on such tract or on any adjoining tract, the person causing such alteration of natural grade or natural flow shall cause to be constructed, to the satisfaction of the City, ditches, swales, catchbasins, drains, retaining walls or other facilities necessary to protect adjoining tracts from erosion, overflow or accumulation of surface waters or any obstruction of the natural drainage of such adjoining tracts. A grading permit, based upon a set of grading plans approved by the City Engineer, issued by the City is required before the commencement of such work.

(D) Developers shall be required to participate in and/or provide on- and off-site drainage improvements deemed by the City as necessary to provide

adequate drainage for the subdivision and to protect downstream areas from the hazards of flooding and high waters.

(E) Land subject to periodic flooding, or that has inadequate drainage, may be subdivided only if improvements or structures are designed by a professional engineer so as to assure adequate flood proofing. Proposals for subdivision of land in such areas shall include engineering evidence that the proposed development will:

- (i) Not unduly restrict or block the conveyance of flood water;
- (ii) Not result in an increase in height of flood water of more than one (1) foot;
- (iii) Require residential structures to have the lowest floor (including basement) to be at least one (1) foot above such flood level or require nonresidential structures to be elevated or flood-proofed to at least one (1) foot above such flood level; and,
- (iv) Meet all zoning requirements for identified flood hazard areas.

(F) New or replacement water supply and/or sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(7) In subdivisions located outside the City's corporate limits but located within the City's territorial limits, street improvements shall conform to standards of improvements as outlined in this Article for subdivisions located within the corporate limits.

(8) Subdividers and developers are referred to Chapter 17, Streets and Sidewalks, for additional applicable standards relating to public improvements.

Sec. 14-12. Public improvements, improvement guarantees, development agreements, construction plans, inspections, and maintenance of dedicated improvements.

(1) Improvements required; oversized or off-site improvements. All public improvements required under this Article, including improvements specified in the City's Comprehensive Plan, which, in the judgment of the City Council, are necessary for the adequate provision of streets, drainage, utilities, municipal services and facilities to the subdivision, shall be constructed at the sole expense of the developer. If oversizing of utility or drainage facilities or off-site improvements are required as a part of the subdivision development, and are necessary for the adequate and efficient development of surrounding areas, the City may require the developer to construct such oversized or off-site improvements. In such event the developer may seek financial participation of adjoining developers to reimburse his portion of the cost of the oversizing or offsite improvements not attributable to the subdivision development.

(2) Dedication or reservation of land for public improvements.

(a) Rights-of-way, streets, alleys, and utilities. Where a proposed right-of-way shown in the City plan and adjacent unincorporated areas, is located in whole or in part in a proposed subdivision, the Planning, Zoning and Variance Commission or the City Council may require the dedication or reservation of such area, in whole or in part, within the subdivision in those cases in which the Commission or the City Council may deem such requirements to be reasonable.

(b) School sites and other public areas. Where a proposed school site or other public use area, shown in the City plan and adjacent unincorporated areas, is located in whole or in part in a proposed subdivision, the Planning, Zoning and Variance Commission or the City Council may require the dedication or reservation of such area, in whole or in part, within the subdivision in those cases in which the Commission or the City Council may deem such requirements to be reasonable. However, in no case shall the total amount of required public areas to be dedicated or reserved, for these uses, exceed ten percent (10%) of the total gross acreage controlled by the owner. The acquisition of the additional area needed for such uses shall be secured by the authority having jurisdiction, and shall be made no later than ninety (90) days after the plat has been recorded.

(3) Improvement Guarantees.

(a) The final plat to be placed on record shall be accompanied by a statement signed by the owner and the subdivider, setting forth the following:

(I) Plans and specifications for such improvements previously approved by the City Engineer clearly describing same.

(II) Agreement executed by the owner and subdivider with the City wherein they agree to make and install the improvements provided for by this Article, in accordance with the plans and specifications accompanying the final plat; and that all such improvements shall be inspected during the course of construction by an inspector appointed by the City Council, with salaries and other costs in connection with such inspections to be paid by the owner and subdivider, with such costs to be based on the reasonable customary charges for such service.

(a) In the event that the City Council, by motion, approves the action of the Planning, Zoning and Variance Commission in approving the final plat, it shall withhold its approval of the plat until an agreement signed by the owner and subdivider, as provided in subsection 3(a)II above, shall be given, supported by a bond executed by an acceptable surety company, as approved by the Director of Finance, or some other acceptable form of security, as approved by the City Council, in an amount equal to the cost of construction of the required improvements as estimated by the developer and approved by the City Engineer. Such surety or other security shall be subject to the condition that the improvements shall be completed within two (2) years after the recordation of the final plat. Unless otherwise approved by the City Council, no construction of public improvements shall commence prior to the City's acceptance of the required improvement guarantee.

(4) Development agreements. A development agreement stating the developer agrees to construct any required public improvements shown in the final plat documents together with collateral which is sufficient, in the judgment of the City Council, to make reasonable provision for the completion of said improvements in accordance with design and time specifications may be required by the City. No subdivision plat shall be signed by the City or recorded at the office of the County Clerk, and no building permit shall be issued for development until a development agreement, if required, between the City and the developer has been executed, and until all public improvements have been accepted by the City. Such agreement shall include a list of all agreed-upon improvements, an estimate of the cost of such improvements, the form of guarantee for the improvements, and any other provisions or conditions deemed necessary by the City Council to ensure that all improvements will be completed in a timely, quality and cost-effective manner. A development agreement shall run with and be a burden upon the land described in the agreement. Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plat documents may also be required.

(5) Construction plans of public improvements. Construction plans for public improvements to be installed within a subdivision shall be prepared by a registered professional engineer and submitted in accordance with the requirements and specifications of the City. Multiple copies of such documents shall be provided in accordance with the schedule of required copies, with payment of the applicable fee as adopted by the City Council. No grading activities and no public improvements shall be constructed until and unless such plans shall have been received and approved by the city. Construction plans shall include but are not limited to those items specified in this Article.

(6) Inspections of public improvements. The City Engineer shall fully inspect all phases of the construction of the improvements for subdivisions. No sanitary sewer, water or storm sewer pipes shall be covered without approval of the City Engineer, working in coordination with the appropriate utility superintendent. No flexible base material, subgrade material or stabilization shall be applied to the street subgrade without prior approval. No concrete or asphalt may be poured or placed to the base without prior approval. The City Engineer may at any time cause any construction, installation, maintenance or location of improvements to cease when, in his judgment, requirements of this Article or the standards or specifications provided in this Article have been violated, and may require such reconstruction or other work as may be necessary to correct any such violation.

(7) Acceptance and maintenance of public improvements. Following the completion of the installation or construction of required subdivision improvements, the developer shall request, and the City Engineer shall provide, a final inspection of required subdivision improvements. Upon approval of said construction, the City Engineer shall issue to the developer a statement approving the subdivision improvements and releasing the improvement guarantee.

The developer shall, upon receiving written approval from the City of the construction of subdivision improvements, provide the City with adequate surety covering the maintenance of all subdivision improvements for a period of two (2) years. The surety is subject to the approval of the City in the same manner as the improvement guarantee. The developer shall, during said two-year maintenance period, provide any and all maintenance and repair required on the subdivision improvements and as directed by the City. At the end of the two-year maintenance period, the developer and City shall conduct a final inspection of all subdivision improvements and the developer shall, where necessary, and at the direction of the City, provide any and all final maintenance and repair to all subdivision improvements prior to the City's letter of acceptance of the

improvements for maintenance purposes.

(8) Finished plans. Finished plans, or "as-builts," attested to by a professional engineer, of all public improvements as installed shall be required before the City will accept the improvements.

Sec. 14-13. Annexation.

Any area proposed for annexation to the corporate limits of the City shall be studied by the Planning, Zoning and Variance Commission and a public hearing held on the proposed annexation, in accordance with state statutes, prior to the incorporation of the area into the City.

ARTICLE 2. CITY PLANNING, ZONING AND VARIANCE COMMISSION.

Section 14-14. City Planning, Zoning and Variance Commission; establishment.

(1) There is established a City Planning, Zoning and Variance Commission pursuant to Section 8.4 of the Charter.

(2) The terms "City Planning Commission", "Planning Commission", "Commission", "Board of Adjustment", or "The Board of Zoning Adjustment of the City of Trinidad, Colorado", whenever used in this Chapter, shall mean "City Planning, Zoning and Variance Commission".

(3) Membership; appointment; term; removal; vacancy.

(a) The City Planning, Zoning and Variance Commission shall consist of seven (7) members who shall be appointed by the City Council and shall not be a member of the City Council or a Council Officer, as defined in Section 2-16 of the Code of Ordinances, nor serve on the Board of Appeals. Of the initial seven (7) members, five (5) shall be current members of the City Planning Commission, which shall cease to exist upon the effective date of this ordinance. Their terms shall expire at the conclusion of the terms to which they were appointed to the Planning Commission. The remaining two (2) members shall be appointed to four (4) year terms. Upon expiration of the initial terms of office, all subsequent appointments shall be for terms of four (4) years, or until a successor takes office.

(b) The City Planning, Zoning and Variance Commission members shall be subject to removal for just cause by a majority vote of the Council. Just cause shall include but not be limited to inefficiency, neglect of duty, acts detrimental to the City's interests, malfeasance in office, or excessive absences. Absences by members of the board of three consecutive meetings or three absences in a six-month rolling period shall be cause for evaluation by City Council for the purpose of consideration of the member's removal. The City Clerk shall advertise vacancies in a newspaper of general circulation requesting that interested individuals submit a letter so indicating their interest and qualifications for the position advertised. (Ord. 1749, eff., 4-16-04)

(c) Any vacancy which shall occur other than through the expiration of term shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(d) All members of the Commission shall serve without compensation and shall be bona fide residents of the City. If any member ceases to reside in the City, his/her membership on the Commission shall immediately terminate.

(4) Organization and meetings. The Commission shall elect its Chairman from among the appointed members and create and fill such other offices as it may determine. The term of the Chairman shall be one (1) year, with eligibility for re-election. The Commission shall hold at least one (1) regular meeting each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

(5) Appearance before Commission or City Council. No member of the Commission shall appear on his/her own behalf, or on behalf of any private person, before either the City Planning, Zoning and Variance Commission or the City Council in connection with any zone change request or request for variance.

Section 14-15. Powers and duties of Commission.

(1) The Commission shall have the duty to prepare and adopt a master plan for the physical development of the City, including any areas outside of its boundaries subject to the approval of the legislative or governing body having jurisdiction thereof, which, in the Commission's judgment, bear relation to the planning of the City. Such plan, with the accompanying maps, plats, charts and descriptive matter, shall show the Commission's recommendation for the development of such territory including, among other things: The general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces, the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utility or terminals; a zoning plan for the control of the height, area, bulk, location and use of buildings and premises.

(2) The Commission, in the preparation of the master plan, shall make careful and comprehensive surveys and studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, adequate provisions for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditures of public funds, and the adequate provision of public utilities and other public requirements.

(3) As preparation of the master plan progresses, the Commission may from time to time adopt and publish a part or parts thereof, any such part to cover one (1) or more major sections or divisions of the City or one (1) or more of the foregoing or other functional matters to be included in the plan. The Commission may amend, extend or add to the plan from time to time.

(4) The Commission shall have such additional powers that are necessary and incidental for the carrying into effect or discharging the powers and duties conferred by this Article, and such as shall seem necessary and proper to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the City and the inhabitants thereof.

Section 14-16. Adoption of master plan - Procedure.

(1) The Commission may adopt the master plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, such parts corresponding with major geographical sections or divisions of the City or with functional subdivisions of the subject matter of the plan, and may adopt any amendments or extensions thereof or additions thereto. Before the

adoption of the plan or any such part, amendment, extension or addition, the Commission shall hold at least one (1) public hearing thereon, notice of the time and place of which shall be given by one (1) publication in a newspaper of general circulation in the City and in the official newspaper of the County. The adoption of the plan, or any part, or amendment, or extension or addition, shall be by resolution of the Commission carried by the affirmative votes of not less than two-thirds (2/3) of the entire membership of the Commission.

(2) The resolution shall refer expressly to the maps and descriptive and other matters intended by the Commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the Chairman or Secretary of the Commission. An attested copy of the plan or part thereof shall be certified to the City Council and after the approval by said body shall be filed with the Clerk and Recorder of the County. (Code 1958, Sec. 18-3.)

Section 14-17. Filing and approval of plats.

Whenever the Commission shall have adopted a major street plan of the territory within its subdivision control or part thereof, as provided in Section 14-16, and shall have filed a certified copy of such plan in the office of the County Clerk and Recorder of the County in which such territory or part is located, no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the Commission and such approval entered on the plat by the Chairman or Secretary of the Commission. (Code 1958, Sec. 18-5.)

Section 14-18. Building and improvement requirements.

Whenever the Commission shall have adopted a master plan, the City shall not accept, lay out, open, improve, grade, pave, curb, or light any street or lay or authorize water mains or sewers or connections to be laid in any street, nor shall any building be erected on any lot within such territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such buildings are proposed to be placed:

(1) Shall have been accepted, opened as, or shall otherwise have received the legal status of a public street prior to that time; or

(2) Corresponds with a street shown on the official master plan or with a street or subdivision plat approved by the Commission or with a street on a street plat made and adopted by the Commission or with a street accepted by the Council or by a two-thirds (2/3) vote of the Council after disapproval by the Commission.

ARTICLE 3. TRINIDAD METRO AREA COMPREHENSIVE MASTER PLAN.

Section 14-19. Repealed (Ord. 1647, eff., 10/27/00)

ARTICLE 4. ZONING ORDINANCE.

DIVISION 1. GENERAL PROVISIONS.

Section 14-20. Title.

This Article shall be known as the "Zoning Ordinance" of the City of Trinidad, Colorado," and may be cited as such.

State law reference: As to zoning power of City, see C.R.S. 1973, Title 31, Art. 23.

Section 14-21. Purpose.

This Ordinance is designed and enacted for the purpose of promoting the health, safety, morals, and general welfare of the present and future inhabitants of the City of Trinidad, Colorado, by lessening congestion in the streets and roads; securing safety from fire and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; protection of the tax base; and securing economy in governmental expenditures.

Section 14-22. Authority.

The Zoning Ordinance and Zone District Map of Trinidad, Colorado are adopted and approved pursuant to authority conferred by Colorado State Law, Title 31, Article 23, Colorado Revised Statutes and the City Charter.

Section 14-23. Definitions.

As used in this Article, certain terms and words are hereby defined and shall have the following meanings unless it shall be apparent from the context that a different meaning is intended:

(1) ***Accessory uses and structures*** shall mean a use naturally and normally incidental to a use by right, and complying with all of the following conditions:

- (a) Is clearly incidental and customary to and commonly associated with the operation of the use by right;
- (b) Is operated and maintained under the same ownership as the use by right;
- (c) Includes only those structures or structural features consistent with the use by right;
- (d) May include home occupations, as defined in this Section.
- (e) May not exceed a maximum of 75% of the square footage of the principal structure for the combined total of all accessory structures or accessory uses. (Ord. 1721, Sec. 14-23 (1)(3) eff., 4/25/03)

- (2) **Alley** shall mean a public, dedicated right-of-way used primarily as a service or secondary means of access and egress to the service side of abutting property.
- (3) **Apartment** shall mean a room or suite of rooms in a multiple dwelling used or designed for occupancy by a single family.
- (4) **Basement** shall mean a story having part, but not more than one half (1/2) of its height below grade. A basement is counted as a story for the purposes of height regulations if subdivided and used for dwelling purposes.
- (5) **Boarding house**: See Lodging house.
- (6) **Building area** shall mean that portion of the lot that can be occupied by the principal use, excluding the front, rear and side yards.
- (7) **Building, attached** shall mean a building which at least part of a wall is common with another building, or which is connected to another building by a roof which exceeds six feet (6') in width between opposite open ends.
- (8) **Building, detached** shall mean a building which is separate from another building or buildings on the same lot. Buildings connected only with a roof not more than six feet (6') wide between opposite open ends shall be deemed to be detached.
- (9) **Building height** shall mean the vertical distance as measured from the average finished grade at the building set-back to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the mean height level between eaves and ridges for gable and hip roofs. Chimneys, ventilators, pipes, spires or similar items shall be exclusive of building height.
- (10) **Building Inspector** shall mean the Building Inspector of the City of Trinidad, Colorado.
- (11) **Building set-back** shall mean an imaginary line extending across the full width or side of a lot, parallel with the street right-of-way line or property line and outside of which no building or structures shall be constructed
- (12) **City** shall mean the City of Trinidad.
- (13) **City Council** shall mean the governing body of the City of Trinidad, Colorado.
- (14) **Commission** shall mean the Planning, Zoning and Variance Commission of the City of Trinidad.
- (15) **Comprehensive Plan** shall mean the Trinidad Metropolitan Comprehensive Plan.
- (16) **Dwelling** shall mean a structure or portion of a structure which is designed for occupancy as living quarters or sleeping quarters.
- (17) **Dwelling, single family** shall mean a structure or portion of a structure, including a manufactured home, as defined in Section 31-23-301(5)(a), C.R.S., and in this Section, which is designed for occupancy as living quarters or sleeping quarters exclusively by one family.

(18) ***Dwelling, two family*** shall mean a building having accommodations for and occupied exclusively by two families.

(19) ***Dwelling, multiple family*** shall mean a structure or group of structures, attached or detached which is (are) designed for occupancy as living quarters or sleeping quarters by more than one family.

(20) ***Dwelling unit*** shall mean one or more rooms in a dwelling designed for occupancy by only one family unit.

(21) ***Family*** shall mean one or more persons related by blood, marriage or adoption, occupying a dwelling unit as members of a single housekeeping organization. A family may include not more than two persons not related by blood, marriage, or adoption.

(22) ***Frontage*** shall mean all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the property line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street. Corner lots shall have only one frontage. Frontage for a single use which may extend for more than one platted lot shall be the total linear distance of all lots of the use along one side of a street, and shall be considered as a single frontage.

(23) ***Garage, private*** shall mean an accessory building or portion of a main building on the same lot and used for the storage only of private, passenger motor vehicles, not more than two of which are owned by others than the occupants of the main building.

(24) ***Garage, repair*** shall mean a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junk yards.

(25) ***Grade level*** shall mean the average of the ground levels of a lot, prior to construction thereon, measured at the center of all walls of a building.

(26) ***Gross leasable area*** shall mean the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any; expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

(27) ***Guest room*** shall mean a room occupied by one or more guests for compensation and in which no provision is made for cooking, but including rooms in a dormitory for sleeping purposes primarily.

(28) ***Home occupation*** shall mean any non-residential use conducted entirely within a dwelling unit and carried on solely by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling unit for dwelling purposes and does not occupy more than 20 percent (20%) of the total floor space of the dwelling unit or accessory structure and which use does not require more than two customers per twenty-four hour day.

(29) ***Hotel or motel*** shall mean a building or group of attached or detached buildings designed for occupancy by short-term or part-time residents who are lodged with or without meals and in which no facilities are provided for cooking in individual rooms.

(30) **Junk yard** shall mean an area two hundred (200) square feet or more, or any area not more than fifty feet (50') from any street, used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery, or parts thereof.

(31) **Lot or parcel** shall mean a piece, plot or area of land, of contiguous assemblage as established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings, and/or accessory buildings thereto or for other use, together with such open spaces as may be required under these regulations and having its frontage on a street or officially approved place.

(32) **Manufactured home** shall mean a single family dwelling which is partially or entirely manufactured in a factory; is not less than twenty-four feet (24') in width and thirty-six feet (36') in length; is installed on an engineered, permanent foundation; has brick, wood, or cosmetically equivalent exterior siding and a pitch roof; and is certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. 5401 et seq., as amended.

(33) **Mobile home** shall mean a portable structure which has no foundation other than a chassis supported by wheels or jacks and which is designed and constructed to provide for occupancy as a dwelling unit.

(34) **Mobile home park** shall mean any lot or parcel of land on which a mobile home is parked.

(35) **Mobile home space** shall mean a parcel of land within a mobile home park designed for the accommodation of one mobile home.

(36) **Mobile home subdivision** shall mean a subdivision of land by recorded plat to be used exclusively for the accommodation of mobile homes.

(37) **Modular or pre-fabricated home** shall mean a structure manufactured, assembled or constructed in whole or in part at a site other than on its foundation, and which is designed and constructed to provide for occupancy as a dwelling unit.

(38) **Nonconforming uses** shall mean any building or land lawfully occupied and used at the time of passage of these regulations or amendments thereto, which use does not conform after the passage of these regulations or amendment thereto with the use regulations of the district in which it is situated.

(39) **Off-street loading space** shall mean a space, not a part of a public thoroughfare, designed for the loading and unloading of vehicles servicing buildings adjacent thereto. Such berths shall not be less than twelve feet (12') in width and twenty-five feet (25') in length, exclusive of access isles and maneuvering space.

(40) **Off-street parking space** shall mean an off-street, hard-surfaced, dust-free space designed and intended to be occupied by a parked automobile, which is a minimum of two hundred (200) square feet in area exclusive of maneuvering and roadway space.

(41) **Permit** shall mean a document issued by the City of Trinidad granting permission to perform an act or service which is regulated by the City.

(42) **Planned Unit Development (PUD)** shall mean a development of land in a manner which allows, in conformance with the provisions of this Article, the following: A variety of uses and/or densities in addition to those ordinarily allowed by right or by condition in the designated zone district, for which land may be developed in order to allow for uniqueness and overall flexibility of development in special instances as may be approved by the City.

(43) **Public hearing** shall mean a legally advertised meeting held by the Planning, Zoning and Variance Commission or City Council at which time citizens' opinions may be voiced concerning the subject of the hearing.

(44) **Qualified planner** shall mean an individual meeting the requirements of planner in charge as defined by the Colorado State Division of Planning or an individual holding full membership in the American Institute of Planners.

(45) **Residential area** shall mean the land area devoted to residential uses, the build able area, not including streets, parking areas, or required usable open space areas.

(46) **Right-of-way** shall mean the entire dedicated tract or strip of land that is to be used by the public for circulation and service.

(47) **Road**: See Street.

(48) **Set-back** shall mean the required distance, and the land resulting therefrom, between the edge of the right-of-way of a public roadway, or some other designated line, and the closest possible line of a conforming structure.

(49) **Sexually Oriented Businesses**: means one or more of the businesses defined as such in Section 14-172. (Ord. 1738, eff. 10/31/03)

(50) **Street** shall mean the entire dedicated public right-of-way, providing for the pedestrian and vehicular movement of people and goods. (Ord. 1738, eff. 10/31/03)

(51) **Structure** shall mean anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts and arbors or breeze-ways, but excepting utility poles, fences, retaining walls and ornamental light fixtures. (Ord. 1738, eff. 10/31/03)

(52) **Structural alterations**: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girder, or any complete rebuilding of the roof or exterior walls. (Ord. 1738, eff. 10/31/03)

(53) **Trailer park**: See Mobile home park. (Ord. 1738, eff. 10/31/03)

(54) **Travel trailer** shall mean any trailer designed for occupancy which is thirty-three feet (33') or less in length and eight feet (8') or less in width and not used as a dwelling or dwelling unit. (Ord. 1738, eff. 10/31/03)

(55) **Usable open space (public or quasi-public)** shall mean open area designed and developed for uses including, but not limited to, recreation, courts, gardens, parks, and walkways. The term shall not include space devoted to street parking and loading areas. (Ord. 1738, eff. 10/31/03)

(56) **Variance** shall mean the relaxation of the terms of the Zoning Regulations in relation to height, area, size and open spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses. (Ord. 1738, eff. 10/31/03)

(57) **Yard** shall mean an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. (Ord. 1738, eff. 10/31/03)

(58) **Yard, front** shall mean a yard extending across the front of a lot between the side lot lines and extending from the front lot line to the front of the main building or any projections thereof. The front yard shall be on the side of the lot which has been established as frontage by the house numbering system. (Ord. 1738, eff. 10/31/03)

(59) **Yard, rear** shall mean a yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building including any projections. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards. (Ord. 1738, eff. 10/31/03)

(60) **Yard, side** shall mean a yard extending from the front yard to the rear yard and being the space between the side lot line and the side of the main building including any projections. (Ord. 1738, eff. 10/31/03)

(61) **Zone district** shall mean a zoned area in which the same zoning regulations apply throughout. (Ord. 1738, eff. 10/31/03)

Section 14-24. Establishment of zone districts.

(1) In order to carry out the purpose of this Article, the City of Trinidad, is hereby divided into four (4) basic zoning districts and eleven (11) secondary-level districts. The basic districts are defined as follows:

(a) E - Established District - Established areas of the community where the character of land use is stable and few changes are anticipated in the immediately foreseeable future. The district should also include rehabilitation or restoration, particularly of a historic nature, in order to maintain the area's established character. The quality of structures is not expected to deteriorate into a sub-standard classification in the immediately foreseeable future. The district may also include certain vacant lands immediately contiguous to or part of a single neighborhood contained within this district.

(b) G - Growth District - Areas where the use of land is in the process of major change, primarily from a vacant or rural character to a more intensive use of a variety of

classifications. Most new development as well as areas of annexation are expected to occur in this district. The growth district should allow for such site design techniques as density development, planned unit development, shopping centers, industrial parks or other such uses.

(c) T - Transitional District - Areas of the community which are undergoing or are expected to undergo land use changes throughout the immediately foreseeable future which are a direct manifestation of plan implementation.

(d) R - Redevelopment District - Areas which will be subject to substantial changes of land use character. The redevelopment aspects could include such techniques as the clearing and rebuilding of areas, the use or reuse of lands for new or different purposes, all as rehabilitation of buildings in an area for different uses; all as opposed to the maintenance of an area's character as intended by the Established District.

(2) For more definitive use separation and for distinction by control of density, any one or all of the basic zoning districts may be sub-classified into as many or as few of the following districts, hereinafter known as second-level zoning districts, as may be in harmony with the character and application of the basic district. The second-level districts are defined as follows:

(a) O - Open - Areas which are used for open space, parks, major public areas or vacant land.

(b) RE - Residential Estate - Land used for large lot residential development of a single family conformity and containing a minimum lot area of 15,000 square feet.

(c) LDR - Low Density Residential - Land used for single family residential, purposes and containing a minimum lot area of 6,250 square feet.

(d) MDR - Medium Density Residential - Land uses for residential purposes accommodating a variety of housing types such as those of a single-family, duplex, triplex or townhouse conformity. Maximum density is ten (10) dwelling units per acre and minimum lot area is 6,000 square feet.

(e) HDR - High Density Residential - Land used for multiple-family residential purposes. Maximum density is twenty-five (25) dwelling units per acre and minimum lot area is 6,000 square feet.

(f) MHR - Mobile Home Residential - Land used exclusively for mobile homes. Minimum land area for this district is five (5) acres and the land area for individual mobile homes is 5,000 square feet.

(g) NS - Neighborhood Service - Areas which are served by convenience types of retail establishments primarily on a neighborhood basis.

(h) CC - Community Commercial - The areas of most intensive commercial use in the community.

(i) I - Industrial - All areas of industrial use in which are accommodated the processing,

manufacturing and fabricating enterprises. This district may also accommodate certain commercial uses.

(j) PUD - Planned Unit Development - Development of an area by means of a design technique which allows flexibility and imagination in the types of uses and arrangements of facilities in an optimum manner in harmony with adjacent properties.

(k) HP - Historic Preservation - The area of Trinidad which has been identified for historic preservation. The area is subject to special design requirements and use restrictions in order to preserve its historic character.

Section 14-25. Zoning Map and boundaries.

(1) The location of the zone districts hereby established are shown on the map entitled "Zone District Map of Trinidad Colorado," dated September 17, 1973, and as may be amended thereafter under the provisions of this Article. Such map along with explanatory matter thereof, is hereby made a part of this Article as if the same were set forth in full herein. In determining the boundaries of zone districts shown on the Zone District Map, the following rules shall apply:

(a) Unless otherwise indicated, the zone boundaries are the center lines of rights-of-way for streets, roads, highways, alleys, ditches and railroads or such lines extended.

(b) Where the property is unsubdivided property, zone district boundaries shall be determined by use of the scale on the Zone District Map. A legal description acceptable to the Planning, Zoning and Variance Commission shall be made available if a controversy arises concerning zone district boundaries.

(c) Where a district boundary is shown by a specific dimension as being located at any given distance from any right-of-way line, such specific dimension shall govern.

(d) The Planning, Zoning and Variance Commission, upon application or upon its own motion, determines the location in cases where uncertainty exists, after application of the rules of this Article.

(2) Annexation. Whenever a proposal is made to add territory to the city limits of the City of Trinidad, said proposal shall include the specified land use and zone district designation. The proposal shall be presented to the Planning, Zoning and Variance Commission for review and the Commission shall prepare and submit recommendations to the City Council. The City Council shall by ordinance designate the zone district or districts into which the territory will be included and shall

be governed by the provisions of this Section. In the absence of the adoption of such ordinance, territory annexed shall automatically become a part of the G - Growth Basic District.

(3) Vacations. Whenever any street, alley or other public way is vacated by official action of the City Council, the zone district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

Section 14-26. General district regulations.

(1) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the zone district (basic district or second level district) in which it is located and the provisions of this Article shall be regarded as the minimum requirements for the protection of the public health, safety, comfort, convenience, prosperity and general welfare.

(2) No building permit shall be approved and no structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered on any subdivided land unless the subject lot, area or tract is officially included within a second level zone district as set forth in this Article.

(3) No part of a lot, open area, or off-street parking area designated for any use or uses or structure or structures for the purpose of complying with the provisions of these regulations shall be designated as a part of a lot similarly required for another use or uses or structure.

(4) No building shall be erected, converted, enlarged, placed, reconstructed or structurally altered to exceed the height limits herein established.

(5) No building shall be erected, converted, enlarged, placed, reconstructed or structurally altered except in conformity with the area and special regulations of the district in which the building is located.

(6) The minimum yards and open spaces, including lot area per dwelling unit, are established by these regulations and no lot area shall be reduced below the district requirements contained in these regulations.

(7) Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one building on one lot except as otherwise provided herein.

(8) The listing of any use as being permitted in any particular district shall be deemed to be an exclusion of such use from any other district, unless such use is specifically permitted in another district under the language set forth in the use regulations.

(9) Regulations for the districts are set forth in Division 2 through Division 12 of this Article, provided, however, that exceptions to any such regulations or such additional regulations as are set forth in other Sections hereof shall apply; provided, further that the Planning, Zoning and Variance Commission may, under certain conditions, vary these regulations and approve the issuance of building permits for the establishment of certain uses, all as set forth in Division 18 of this Article. Certain regulations applicable to pre-established uses that do not conform to the provisions contained herein are set forth in Division 15 of this Article.

(10) Regulating Structures within the E-Established & G-Growth, Basic Zoning Districts. (Ord. 1665, eff., 6-5-01)

(a) All structures, requiring a building permit, constructed within the E & G-Basic Zone Districts must have a roof pitch of equal to or greater than 6/12. (Ord. 1665, eff., 6-5-01)

(b) All single-family dwelling units constructed within the E & G - Basic Zone Districts shall have a door facing the front yard (front door). (Ord. 1665, eff., 6-5-01)

(c) All single family dwelling units within the E & G - Basic Zone Districts shall have a front porch facing the front yard, equal to or greater than 16 sq. ft. (Ord. 1665, eff., 6-5-01)

(d) The City Manager shall have the authority to grant administrative variance relief from Section 14-26(10) if it is determined appropriate. All requests for relief have the right to the variance process through the Planning, Variance and Zoning Commission. (Ord. 1665, eff., 6-5-01)

Section 14-27. Uses by right, conditional uses and special uses.

(1) Each zone district provides for use characteristics peculiar to it; thus all allowable uses require controls complimentary thereto. Two (2) groups of uses are provided for each district as follows:

(a) Uses allowed by right - Uses by right as set forth in a Zone district. Such uses are allowed without further application or administrative review.

(b) Conditional uses - Uses specifically allowed within a zone district provided certain conditions are met by the property owner. (Ord. 1941, Sec. 14-27(1)(b), repealed and reenacted, eff. 6/28/13)

(I) Standard Conditional Use Permit (CUP) conditions.

- A) All CUP conditions shall be set forth by the Planning, Zoning and Variance Commission (hereinafter referred to as the Commission) and shall be agreed to and carried out by the property owner or by a duly authorized agent of the property owner.
- B) Under no circumstance shall a Certificate of Occupancy be issued by the Building Inspector for any structures associated with the CUP until all of the conditions specified by the Commission have been met. Exception for multiple structures under one CUP: A Certificate of Occupancy may be issued for each structure within the CUP once all conditions specific to an individual structure have been met
- C) All CUP approvals shall remain in effect for a specified period of time with the following exceptions:
 - i. Any conditional use that is not established within one year of its approval, discontinued for at least one year or replaced by another use of the land shall expire.
 - ii. Before a conditional use can be transferred to a new owner, said new owner must submit a letter to the Commission agreeing to the CUP terms and conditions. No business license shall be issued to the new owner and/or an agent of the new owner until said letter is submitted

to the Commission. If the new owner does not feel that he or she can fully comply with the terms and conditions of the CUP, he or she may submit an application to the Commission for a CUP modification.

(II) Conditional Use Permit (CUP) application procedures.

- A) The Commission shall schedule and hold a public hearing for all CUP applications.
- B) Notice of the time and place of each CUP hearing shall appear at least ten (10) days prior to the hearing in a newspaper of general circulation in the City of Trinidad.
- C) The Commission shall keep a record of the proceedings from each hearing, a copy of which shall be available to any party for a reasonable fee.
- D) At the conclusion of the hearing or within not more than thirty (30) days thereafter, the Commission shall render its decision either orally or in writing. The applicant shall be issued a copy of the written decision of the Commission or a written notice of the oral decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision shall be appealed to the Board of Appeals in accordance with Section 14-139 of the City of Trinidad Code of Ordinances, the decision shall become final at the end of the fifteen (15) day appeal period.

(III) Conditional Use Permit (CUP) periodic review procedures.

- A) The Commission shall schedule and hold a public hearing to review CUPs at an interval not less than once per year to ensure that the conditions associated with the CUP continue to be met by the property owner.
- B) Notice of the time and place of said public hearing before the Commission shall appear at least ten (10) days prior to the hearing in a newspaper of general circulation in the City of Trinidad. Written notice of the hearing must also be delivered by the City to the property owner at least thirty (30) days prior to the scheduled hearing date.
- C) The Commission shall keep a record of the proceedings from each hearing, a copy of which shall be available to any party for a reasonable fee.
- D) At the conclusion of the hearing or within not more than thirty (30) days thereafter, the Commission shall render its decision to reapprove or revoke the CUP either orally or in writing. The applicant shall be issued a copy of the written decision of the Commission or a written notice of the oral decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision shall be appealed to the Board of Appeals in accordance with Section 14-139 of the City of Trinidad Code of Ordinances, the decision shall become final at the end of the fifteen (15) day appeal period.

(2) In those zone districts specified in this Article, uses by special permit may be allowed. Uses by special permit are those uses specifically set forth within a zone district and allowed only by a special permit issued by the Planning, Zoning and Variance Commission and approved by the City Council. Said special permit shall be issued only after review and recommendation by the Planning, Zoning and Variance Commission, public hearing and approval by City Council.

Section 14-28. Zone district classifications.

(1) The E - Established District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential - MDR
- (d) High Density Residential - HDR
- (e) Neighborhood Service - NS
- (f) Community Commercial - CC
- (g) Industrial - I
- (h) Historic Preservation - HP

(2) The Growth District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Residential Estate - RE
- (c) Low Density Residential - LDR
- (d) Medium Density Residential - MDR
- (e) High Density Residential - HDR
- (f) Mobile Home Residential - MHR
- (g) Neighborhood Service - NS
- (h) Community Commercial - CC
- (i) Industrial - I
- (j) Planned Unit Development - PUD

(3) The Transitional District shall be sub-classified into the following second level zone districts (amended Ord. 1906, eff. 11-26-10):

- (a) Open - O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential - MDR
- (d) High Density Residential - HDR
- (e) Mobile Home Residential - MHR
- (f) Neighborhood Service - NS
- (g) Community Commercial - CC (Ord. 1906, eff. 11-26-10)
- (h) Industrial - I

(i) Planned Unit Development - PUD

(4) The Redevelopment District shall be sub-classified into the following second level zone districts:

- (a) Open - O
- (b) Low Density Residential - LDR
- (c) Medium Density Residential- MDR
- (d) High Density Residential - HDR
- (e) Neighborhood Service - NS
- (f) Community Commercial - CC
- (g) Industrial - I
- (h) Planned Unit Development - PUD

Section 14-29. Uses not itemized.

(1) Upon application or on its own initiative, the City Council may, by ordinance, add to the uses listed for a zone district any other similar use which conforms to the conditions set forth in the following special findings:

- (a) Such use is appropriate to the general physical and environmental character of the district to which it is added.
- (b) Such use does not create any more hazard to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted in the district to which it is added.
- (c) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectional influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is added.
- (d) Such use is compatible with the uses existing and permitted in the district to which it is added and will not adversely affect the Historic Preservation District.

(3) When any use has been added to the list of permitted uses in any district in accordance with this Section, such use shall be deemed to be listed in the appropriate section of this Article and shall be added thereto at the time of adoption.

DIVISION 2. ZONE DISTRICT REGULATIONS FOR THE O - OPEN DISTRICT.

Section 14-30. Uses permitted by right.

- (1) Ranching, farming and general agriculture, except feed lots and animal sale barns.
- (2) Parks and outdoor recreation facilities.
- (3) Public and semi-public uses except as enumerated in Section 14-31, Conditional Uses.

(4) Accessory buildings and uses customarily incident to the uses permitted by right.

Section 14-31. Conditional uses.

(1) The following conditional uses may be permitted within the Open District:

- (a) Electric substations and gas regulator stations.
- (b) Fire stations, police stations and telephone exchanges.
- (c) Water reservoirs, water storage tanks, water pumping stations, and sewer lift stations.
- (d) Commercial outdoor recreation facilities.
- (e) Commercial and public parking lots.
- (f) Hospitals and sanitariums for contagious or infectious diseases, penal or mental institutions and nursing homes.
- (g) Cemeteries and mausoleums.

(2) For each instance the Planning, Zoning and Variance Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, a statement of the time sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Planning, Zoning and Variance Commission may in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-32. Uses Allowed by special permit.

(1) Airports, provided:

- (a) They do not endanger the immediate area; and
- (b) They meet all local, state and federal regulations.

(2) Sand and gravel pits or other such excavation or surface mining subject to the following:

- (a) When the application for a special permit is filed, the applicant shall provide a plan showing the land proposed for excavation. This plan shall show the contour intervals, any improvements thereon and to a distance of three hundred feet (300') in all directions from the subject.
- (b) Concurrent with the above, the applicant shall also provide a plan showing the

contemplated changed condition of the land due to the excavation. This plan must include the contemplated re-use of the land, what restoration or curing of the land is planned, and the contours on at least two foot (2') intervals.

(c) No excavation or processing of excavated materials shall be permitted closer than thirty feet (30') from the boundary of adjacent property nor closer than one hundred twenty-five feet (125') from any existing residence, unless by written agreement the owner or owners of such adjacent property consent to a lesser distance and the Commission approves such lesser distance. The Commission may set a greater distance than that set forth above when in its opinion it is justified.

(d) The Commission shall specify the degree of slopes of banks for all excavations, the depth of and the distance from any public structures when excavations are made in or near stream beds. When excavations are near or adjacent to irrigation canals or ditches, the applicant shall secure a written agreement from the ditch company or from officials responsible for the canals or ditches indicating their determination as to setbacks from public rights-of-way when excavation is contemplated near such rights-of-way.

(e) Sand and gravel shall be excavated in such a manner so as to assure the convenient restoration of the land and to hold to a minimum any adverse effects on adjacent land as a result of piling or storing the overburden material.

(f) The sand and gravel shall be excavated in such a manner so as to leave an average of two feet (2') of undisturbed sand or gravel as evenly as possible, over the entire excavation tract, to provide a water bearing strata for any existing ground water, and more if the Commission deems necessary.

(g) After an excavation has been completed, the operator shall spread the excess waste materials evenly over the bottom of the excavation. The topsoil shall then be spread evenly to a minimum depth of eighteen inches (18"). The topsoil shall be spread last so as to produce a new surface for the purpose of growing crops, trees, shrubs, etc. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.

(h) An excavation operation shall maintain haulage roads within the premises covered by the permit and such roads shall be kept in a reasonably dust-free condition when such dust would be injurious to bordering premises. The Commission shall specify the conditions in each instance to insure this requirement. The hours of operation, unless otherwise specified by the Commission, shall be from seven a.m. to six p.m., or unless a national emergency arises or special permission is granted by the Commission.

(i) The applicant shall furnish evidence of a commitment of credit in favor of the City of Trinidad or bond or certified check, in an amount calculated by the Commission to secure the site restorations as required in this section. Guidelines for calculating the amount of said bank commitment of credit, bond or certified check could be a sum equal to the number of acres covered by the permit, multiplied by Five Hundred Dollars (\$500.00). The minimum amount of such should be One Thousand Dollars (\$1,000.00) and the maximum amount, Twenty-Five Thousand Dollars (\$25,000.00). The Commission shall have the power and authority to provide for an alternative method of indemnifying the City in lieu of the above

mentioned methods.

(j) Upon the granting of a permit by the Commission, the fee schedule shall apply as set forth in Section 14-121.

(k) All permits shall be in full force for a period of five (5) years from the date of issuance thereof unless a shorter time is set by the Commission. Temporary permits may be renewable by the Commission for the same period of time or less, without further notice, hearing or posting of the property involved; provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a new permit shall be considered a new permit with respect to fees.

(l) The Commission shall have the power to cancel permits upon proof of violation of any of these regulations.

(3) Rock crushers, concrete and asphalt mixing plants subject to the following:

(a) The use is accessory to a sand and gravel operation and in the finished product, the operator uses the product of the sand and gravel pit on which the operation is proposed.

(b) Rock crushers, concrete and asphalt mixing plants, which are temporary operations (six (6) months or less) shall not be subject to any of the regulations of this section, except they shall be required to obtain a permit from the Commission.

Section 14-33. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows:

(1) No structure, except one used for agricultural purposes, shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

(2) There shall be no height limitations for agricultural buildings.

(3) Minimum height regulations less than those provided herein may be set forth by special airport zoning regulations for buildings in an airport approach zone.

Section 14-34. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area: Eight hundred (800) square feet per structure.

(2) Minimum lot area:

(a) One-half (½) acre for all uses permitted by right.

(b) For all conditional uses, one acre unless otherwise specified by the Planning, Zoning and

Variance Commission.

- (3) Minimum lot frontage: One hundred feet (100') for each principal structure.
- (4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than fifty feet (50') for all principal structures, unless otherwise specified by the Planning, Zoning and Variance Commission.
- (5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet (10').
- (6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than ten feet (10') on each side of the lot.

DIVISION 3. ZONE DISTRICT REGULATIONS FOR THE RE -RESIDENTIAL ESTATE DISTRICT.

Section 14-35. Uses permitted by right.

- (1) Single family dwelling units.
- (2) Home occupations.
- (3) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (4) Farm animals, provided such animals are kept on a parcel of land not less than one (1) acre in area.
- (5) Fences, hedges and walls, provided they are located where they will not obstruct motorists' vision at street intersections.
- (6) Accessory buildings and uses customarily incident to the uses permitted in this district.

Section 14-36. Conditional uses.

- (1) The following conditional uses may be permitted within the Residential Estate District:
 - (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone exchanges.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
 - (d) Churches and schools or other public or semi-public uses.
- (2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site,

the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, a statement of the time sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, set-backs or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-37. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows:

No dwelling or other structure shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

Section 14-38. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area: Eight hundred (800) square feet per dwelling unit.

(2) Minimum lot area:

(a) Fifteen thousand (15,000) square feet per dwelling unit.

(b) For all conditional uses, fifteen thousand (15,000) square feet unless otherwise specified by the Planning, Zoning and Variance Commission.

(3) Minimum lot frontage: Seventy five feet (75').

(4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') feet for all principal structures, unless otherwise specified by the Commission.

(5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet (10').

(6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than ten feet (10') on each side of the lot.

DIVISION 4. ZONE DISTRICT REGULATIONS FOR THE LDR -LOW DENSITY RESIDENTIAL DISTRICT.

Section 14-39. Uses permitted by right.

- (1) Single family dwelling units.
- (2) Home occupations.
- (3) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (4) Fences, hedges, and walls, provided they are located where they will not obstruct motorists' vision at street intersections.
- (5) Accessory buildings and uses customarily incident to the uses permitted in this district.

Section 14-40. Conditional uses.

- (1) The following conditional uses may be permitted within the Low Density Residential District:
 - (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone exchanges.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
 - (d) Churches and schools or other public or semi-public uses.
- (2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.
- (3) The Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-41. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No dwelling or other structure shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

Section 14-42. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

- (1) Minimum floor area:

- (a) One (1) bedroom dwelling unit - six hundred fifty (650) square feet.
 - (b) Two (2) bedroom dwelling unit - eight hundred (800) square feet.
 - (c) Three (3) bedroom dwelling unit - nine hundred (900) square feet.
 - (d) Four (4) or more bedroom dwelling unit - one thousand (1,000) square feet.
- (2) Minimum lot area:
- (a) Six thousand (6,000) square feet per dwelling unit.
 - (b) For conditional uses, six thousand (6,000) square feet, unless otherwise specified by the Commission.
- (3) Minimum lot frontage: Fifty feet (50').
- (4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all principal structures, unless otherwise specified by the Commission.
- (5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet (10').
- (6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than five feet (5') on each side of the lot.

DIVISION 5. ZONE DISTRICT REGULATIONS FOR THE MDR - MEDIUM DENSITY RESIDENTIAL DISTRICT.

Section 14-43. Uses permitted by right.

- (1) Single family dwelling units.
- (2) Multiple family dwellings.
- (3) Home occupations.
- (4) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (5) Fences, hedges, and walls, provided they will not obstruct motorists' vision at street intersections.
- (6) Accessory buildings and uses customarily incident to the uses permitted in this district.

Section 14-44. Conditional uses.

(1) The following conditional uses may be permitted within the Medium Density Residential District:

- (a) Electric substations and gas regulator stations.
- (b) Fire stations, police stations and telephone exchanges.
- (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
- (d) Churches and schools or other public or semi-public uses.

(2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may, in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-45. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No dwelling or other structure shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

Section 14-46. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area for single or multiple family dwellings:

- (a) One (1) bedroom dwelling unit - six hundred fifty (650) square feet.
- (b) Two (2) bedroom dwelling unit - eight hundred (800) square feet.
- (c) Three (3) bedroom dwelling unit - nine hundred (900) square feet.
- (d) Four (4) or more bedroom dwelling unit - one thousand (1,000) square feet.

(2) Minimum lot area:

- (a) Six thousand (6,000) square feet per dwelling.
- (b) For all conditional uses, six thousand (6,000) square feet.

- (3) Minimum lot frontage: Fifty (50) feet.
- (4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all principal structures, unless otherwise specified by the Commission.
- (5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet (10').
- (6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than five feet (5') on each side of the lot.

Section 14-47. Density regulations.

For multiple family dwellings, density shall not exceed ten (10) dwelling units per acre of residential area.

DIVISION 6. ZONE DISTRICT REGULATIONS FOR THE HDR - HIGH DENSITY RESIDENTIAL DISTRICT.

Section 14-48. Uses permitted by right.

- (1) Multiple family dwelling units.
- (2) Home occupations.
- (3) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (4) Fences, hedges and walls, provided they are not located where they will obstruct motorists' vision at street intersections.
- (5) Accessory buildings and uses customarily incident to the uses permitted in this district.

Section 14-49. Conditional uses.

- (1) The following conditional uses may be permitted within the High Density Residential District:
 - (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone stations.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
 - (d) Churches and schools or other public or other semi-public uses.
- (2) For each instance, the Commission shall be provided with site development plans showing the

proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may, in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-50. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No dwelling or other structure shall exceed three and one-half (3 ½) stories or thirty-five feet (35') in height.

Section 14-51. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area: Four hundred (400) square feet per 1 multiple family dwelling unit.

(2) Minimum lot area:

(a) Six thousand (6,000) square feet per dwelling.

(b) For all conditional uses, six thousand (6,000) square feet, unless otherwise specified by the Commission.

(3) Minimum lot frontage: Fifty feet (50').

(4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all principal structures, unless otherwise specified by the Commission.

(5) Minimum rear yard: Measured from the rear property line, every principal or accessory building shall have a rear yard of not less than ten feet (10').

(6) Minimum side yard: Measured from the side property lines, there shall be side yards of not less than five feet (5') on each side of the lot.

Section 14-52. Density regulations.

For multiple family dwellings, density shall not exceed twenty-five (25) dwelling units per acre of residential area.

DIVISION 7. ZONE DISTRICT REGULATIONS FOR THE MHR - MOBILE

HOME RESIDENTIAL DISTRICT.

Section 14-53. Uses permitted by right.

- (1) Mobile homes designed for occupancy by one family.
- (2) Mobile home parks and mobile home subdivisions.
- (3) Truck campers and travel trailers.
- (4) Home occupations.
- (5) Domestic animals, provided such animals are household pets and kennels are not maintained.
- (6) Fences, hedges and walls, provided they are not located where they will obstruct motorists' vision at street intersections.
- (7) Accessory buildings and uses customarily incident to the uses permitted by this district.

Section 14-54. Conditional uses.

- (1) The following conditional uses may be permitted within the Mobile Home Residential District:
 - (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone exchanges.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
- (2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of proposed structures, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.
- (3) The Commission may, in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-55. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No mobile home or other structure shall exceed two and one-half (2 ½) stories or twenty-five feet (25') in height.

Section 14-56. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area:

- (a) Two hundred (200) square feet per mobile home in a mobile home park.
- (b) Six hundred (600) square feet per mobile home in a mobile home subdivision.

(2) Minimum lot area:

- (a) Four thousand (4,000) square feet per mobile home in a mobile home park.
- (b) Three thousand (3,000) square feet per truck camper or travel trailer.
- (c) Six thousand (6,000) square feet per mobile home in a mobile home subdivision.
- (d) For all conditional uses, five thousand (5,000) square feet unless otherwise specified by the Commission.
- (e) Any newly created free-standing Mobile Home Residential District shall contain at least five (5) acres of land.

(3) Minimum lot frontage: Forty feet (40').

(4) Minimum front yard: Measured from the nearest edge of the roadway, there shall be a front yard of not less than twenty feet (20') for all mobile homes, unless otherwise specified by the Commission. For mobile home courts fronting on a State or Federal Highway, the required front yard shall be fifty feet (50').

(5) Minimum rear yard: There shall be twenty feet (20') between mobile homes or accessory buildings, or if measured from the rear property line, every mobile home shall have a rear yard of not less than ten feet (10')

(6) Minimum side yard: There shall be twenty feet (20') between mobile homes or accessory buildings, or if measured from the side property line, every mobile home shall have a side yard of not less than ten feet (10') on each side of the lot. Where the side yard abuts a State or Federal Highway, the required side yard shall be fifty feet (50').

Section 14-57. Design requirements.

(1) A Mobile Home Residential District may be created upon petition for an amendment to the Zoning District Map. Any petition for this zone change shall be accompanied by a site design by a registered engineer, architect, landscape architect, or qualified planner, complete in detail showing the following:

- (a) Location and legal description.

- (b) Entrance to and exits from the court.
- (c) Vehicular roadways, driveways and pedestrian walks. All roads shall be designed and built to City specifications.
- (d) Plans showing size and arrangement of mobile home lots and stands and location of roadways and service and utility buildings.
- (e) Topographical map showing original and final contours at two foot (2') intervals.
- (f) Provisions for drainage.
- (g) Area set aside for recreation, clothes washing and drying, storage, and off-street parking.
- (h) Fencing and screen planting on the premises.
- (i) Plans for water supply and distribution.
- (j) Plans for sewage disposal and collection.
- (k) Provisions for trash and garbage storage and removal.
- (l) Plans for underground gas, electric, and telephone service connections to each space.
- (m) Typical lot plan.

(2) The petitioner shall consult with the school district officials and secure a written statement to be submitted with the petition as to the impact on the school district by the increased number of school children from the increased residential density of the mobile home court.

(3) The petition shall also be accompanied by a statement of conformance with the Federal Housing Administrations' Minimum Property Standards for Mobile Home Courts.

(4) For each mobile home lot and for four (4) truck campers, or travel trailer lots, there shall be provided:

- (a) Recreational area in the amount of three hundred (300) square feet.
- (b) Space for mechanical washing and clothes drying facilities in the amount of twenty-five (25) square feet.
- (c) Two (2) off-street parking spaces for each lot, except for truck camper or travel trailer lots.

(5) Service and utility buildings and appurtenances, garbage and trash containers, racks and rack locations, rodent and insect control, and water and sewage provisions must meet with the approval of the Colorado Department of Health, the local health authority and the provisions of the Uniform Plumbing Code as adopted by the City of Trinidad.

DIVISION 8. ZONE DISTRICT REGULATIONS FOR THE NS -NEIGHBORHOOD SERVICE DISTRICT.

Section 14-58. Uses permitted by right:

- (1) Business, professional and semi-professional offices.
- (2) Medical clinics and pharmacies operated in conjunction with a clinic.
- (3) Barber and beauty shops.
- (4) Club or lodge (nonprofit).
- (5) Community service agency.
- (6) Day nursery or child-care center.
- (7) Accessory building or use (not involving open storage), when located on the same lot.
- (8) Commercial and public parking lots.
- (9) All uses permitted in the HDR District.

Section 14-59. Conditional uses.

- (1) The following conditional uses may be permitted within the Neighborhood Service District:
 - (a) Enterprises or businesses of the same nature or class as those listed above in Section 14-58, which in the opinion of the Commission, as evidenced by a resolution of record, are not more obnoxious or detrimental to the welfare of the area than are those listed in said Section 14-58.
 - (b) Enterprises of a retail trade nature catering specifically to neighborhood convenience trade which in the opinion of the Commission, as evidenced by a resolution of record, are not of a different intensity of use or character, nor are more obnoxious or detrimental to the welfare of the area than existing businesses. Under no circumstance shall this provision allow gasoline service stations, automobile parts supply stores or automobile repair garages of any kind.
 - (c) Electric substations and gas regulator stations.
 - (d) Fire stations, police stations and telephone exchanges.
 - (e) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.

(2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of structures proposed, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may, in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-60. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No structure shall exceed three and one-half (3 ½) stories or thirty-five feet (35') in height.

Section 14-61. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area: No minimum requirements.

(2) Minimum lot area: No minimum requirements.

(3) Minimum lot frontage: No minimum requirements.

(4) Minimum front yard: Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all principal structures, which may be used to meet off-street parking requirements, unless otherwise specified by the Commission.

(5) Minimum rear yard: No minimum requirements.

(6) Minimum side yard: No minimum requirements.

DIVISION 9. ZONE DISTRICT REGULATIONS FOR THE CC - COMMUNITY COMMERCIAL DISTRICT.

Section 14-62. Uses permitted by right.

(1) All businesses of a retail or service nature.

(2) Wholesaling of products provided that storage space does not exceed one thousand five hundred (1,500) square feet of floor area.

- (3) Fabrication or assembling incidental to retail sales from the premises, provided that not more than twenty-five percent (25%) of the floor area occupied by such business is used for manufacturing, processing, assembling, treatment, installation and repair of products.
- (4) Mortuary or embalming establishment or school.
- (5) Accessory building or use (not involving open storage), when located on the same lot.
- (6) All uses permitted in the HDR - High Density Residential District.
- (7) All uses permitted in the NS - Neighborhood Service District.
- (8) Churches and schools or other public or semi-public uses. (Ord. 1630, eff., 5/26/00)

Section 14-63. Conditional uses.

- (1) The following conditional uses may be permitted within the Community Commercial District:
 - (a) Enterprises or businesses of the same nature or class as those listed in Section 14-62, which in the opinion of the Commission, as evidenced by a resolution of record, are not more obnoxious or detrimental to the welfare of the area than are those listed in said Section 14-62.
 - (b) Electric substations and gas regulator stations.
 - (c) Fire stations, police stations and telephone exchanges.
 - (d) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
- (2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of proposed structures, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.
- (3) The Commission may, in addition, prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Commission.

Section 14-64. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No structure shall exceed five (5) stories or fifty feet (50') in height.

Section 14-65. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

- (1) Minimum floor area: No minimum requirements.
- (2) Minimum lot area: No minimum requirements.
- (3) Minimum lot frontage: No minimum requirements.
- (4) Minimum front yard: No minimum requirements except that motor fuel pumps shall not be erected less than twenty-five feet (25') from the front property line.
- (5) Rear yard: No minimum requirements.
- (6) Minimum side yard: No minimum requirements.

DIVISION 10. ZONE DISTRICT REGULATIONS FOR THE I - INDUSTRIAL DISTRICT.

Section 14-66. Uses permitted by right.

- (1) Any kind of scientific research, manufacturing, compounding, storage of products or raw materials, fabrication, assembling, processing or treatment of products, distribution centers, food and beverage processing or other similar types of use. All uses by right are subject to the industrial performance standards as set forth in Section 14-71.
- (2) Builders' supply yards, sale of cement and concrete products, and lumber yards.
- (3) Accessory buildings and uses, including off-street parking facilities customarily incident to the uses permitted by this district.
- (4) All uses permitted in the CC - Community Commercial District, except residential uses.

Section 14-67. Conditional uses.

- (1) The following conditional uses may be permitted within the Industrial District:
 - (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone exchanges.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
 - (d) Dwelling unit, provided a use permitted by right is taking place therein.

(2) For each instance, the Commission shall be provided with site development plans showing the proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of proposed structures, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

(3) The Commission may, in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space or other such conditions which may be deemed necessary by the Commission.

Section 14-68. Uses by special permit.

(1) A special permit may be issued for any of the following uses:

(a) Junk yards, provided the entire land area occupied by the use is enclosed by an eight foot (8') fence.

(b) Storage of gasoline and petroleum products of more than four thousand (4,000) gallons above grade.

(c) Construction and operation of a transfer station, which is defined as a facility at which refuse, awaiting transportation to a disposal site, is transferred from one type of containerized collection receptacle into another or is processed for compaction. Transfer stations must comply with the following requirements: (Ord. 1544, 12/28/96.)

(I) Only residential and commercial waste shall be accepted at transfer stations. Wastes such as medical waste, asbestos waste, and contaminated soil are special wastes, and shall not be accepted at transfer stations unless the transfer station is specifically designed and approved for the special waste. Special wastes require special handling and must be disposed at approval solid waste disposal sites and facilities approved for the specific waste stream. "Hazardous waste" as defined in 6 CCR 1007-3 §261.3 shall not be accepted at transfer stations.

(II) Transfer station shall comply with the health laws, standards, rules, and regulations of the Colorado Department of Public Health and Environment, the storm water rules of the Colorado Water Quality Control Commission, and all applicable local laws, ordinances and regulations.

(III) No special use permit for a transfer station shall be approved until an operating plan has been developed and submitted to the City which contains at a minimum the following:

(A) General data maps

(i) Name (s) and address(es) and telephone number(s) of the owner/operator. Name and address and phone number of the person(s) operating the facility and having the authority to take corrective action

in an emergency.

(ii) Facility mailing address, county and legal description including 1/4 section, section, township and range.

(iii) Regional map depicting service area, existing and proposed.

(iv) Vicinity map showing access and service roads, zoning and land use, residences, water wells and the location of all surface water bodies, the location of 100 year flood plain boundaries, and all manmade or natural features relating to the facility within a ½ mile radius.

(v) Site map showing adjacent properties including land use, property owners names and addresses, site property boundaries and area (acres). If proposed site is adjacent to public roads or streets, include the properties across the street or road. The map should show the present site conditions and the projected site utilization including all site structures (such as buildings, fences, gates, entrances and exits, parking areas, on-site roadways, and signs) and the location of all water supplies and utilities. This site map shall be certified by a state licensed surveyor and engineer.

(vi) Site maps and drawings showing all the proposed structures and areas designated for unloading, baling, compacting, storage, and loading, including the dimensions, elevations, and floor plans of these structures and areas, including the general process flow.

(vii) Facility's drainage system and water supply system.

(B) Design criteria.

(i) Unloading and loading areas shall be:

Adequate in size to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles;

Constructed of concrete or asphalt paving material and equipped with adequate drainage structures;

Solid waste handling shall be confined to the smallest practical area. Such handling shall be supervised by competent operating personnel who shall be familiar with proper operational procedures;

Sufficient internal storage areas to provide for incoming solid waste;

Exhaust removal system shall be installed in enclosed areas; and

Measures shall be provided to prevent backing into pits while unloading.

(ii) On-site roads

Designed to accommodate expected traffic flow in a safe and efficient manner;

The road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding expected loads;

Passable, in all weather conditions, by loaded collection and transfer vehicles. Provisions shall be made for de-icing ramps during winter months; and

Where public dumping is allowing, separate access for passenger vehicles shall be provided.

(iii) Equipment.

Number, description and uses of all equipment projected to be employed including the design capacity.

(iv) Gate and fencing.

Types and heights of suitable gate and fencing material to be placed on site, to limit unauthorized persons from access to the facility when the facility is closed.

(v) Signs.

A sign shall be posted, at all access points to the facility, with the hours of operation, the types of solid waste accepted and not accepted, the operating hours the facility accepts wastes, and emergency telephone numbers of a responsible party.

(vi) Buffer zones.

Buffer zone of 200 feet around the active operating area to the nearest property line when adjacent to residential zoned areas.

(C) Operation standards.

(i) Waste characterization.

The types, composition, and expected daily volume of all solid waste to be accepted at the facility in cubic yards or tons/per day, the maximum time any such waste will be sorted, and the proposed capacity of the facility.

(ii) Supervision.

Facilities with permanent continually operating mechanical equipment shall have an attendant on duty at all times the facility is open to the public.

(iii) Personnel.

The number, classification, and job descriptions of personnel to be

employed at the facility when operating at full capacity. A personnel training plan which includes recognizing unauthorized waste such as PCB's and hazardous wastes, equipment operation, and any other personnel concerns.

(iv) Nuisance conditions.

All reasonable measures shall be employed to collect, properly contain, and dispose of scattered litter, including frequent policing of the area, and the use of wind screens where necessary. The facility shall be managed in such a manner that noise, dust and odors do not constitute a hazard to human health. The facility shall be managed in such a manner that the attraction, breeding and emergence of birds, insects, rodents and other vectors do not constitute a health hazard.

(v) Off-site water.

Control measures shall be provided to protect surface and ground waters, including run-off collection and discharge, designed and operated to handle a twenty-four (24) hour, twenty-five (25) year storm and equipment cleaning and wash down water.

(vi) Fire protection.

Fire protection equipment shall be available at all times. A fire protection plan including provisions to prevent the spread of fire to adjoining property shall be approved by the local fire department.

(vii) Operational records.

Records shall be maintained for all facilities. These records shall include a daily log of the quantity of solid waste received and transported, as-built construction details, and variations from approved operations procedures. Records shall be kept on-site whenever practicable or as otherwise approved.

(viii) Contingency plan.

Contingency plans specifying the procedures to be followed to handle situations such as the following shall be available at all times to the transfer stations attendants:

Hazardous material incident, including emergency personnel, and notification procedures;

Contamination of surface water or ground water;

Nuisance conditions on site or confirmed beyond the site boundary;
and

Alternate solid waste handling system for periods of inability to operate or delays in transporting solid waste due to fires, unusual traffic conditions, equipment breakdown, hot loads, or other emergencies or undesirable conditions.

(ix) Cleaning Facilities.

Transfer stations shall be cleaned daily of all loose materials and litter, by wash-down or other approved method, to prevent odors and other nuisance conditions. All residuals shall be properly removed and disposed. All boxes, bins, pits or other container type used shall be cleaned on a schedule approved by the City.

(x) Standing water.

All floors shall be free from standing water. All drainage from cleaning areas shall be discharged to sanitary sewers or other methods that meet local pretreatment standards.

(xi) Storage adequate.

Storage space for incoming solid waste shall be available at the transfer station. Solid wastes should be loaded into the containerized collection receptacle on the same day it arrives at the transfer station. Uncompacted wastes will not be allowed to remain on the tipping floor overnight. Removal of all putrescible solid waste from the transfer station whenever transfer containers are full, or weekly, whichever comes first, is also required. Uncleaned transfer vehicles containing putrescible mater shall not be parked on public streets or roads except under emergency conditions. Adequate off-street parking for facility vehicles shall be provided.

(xii) All solid waste received at a transfer station shall be transferred as soon as practicable. All solid wastes arriving at the transfer station that are not transferred within twenty-four (24) hours of receipt shall be placed in closed containers or in totally enclosed buildings, structures, or other means of cover acceptable to the City, that deter water, birds, insects, rodents and other vectors from reaching wastes.

(xiii) Final disposal.

All solid waste passing through the transfer station shall be ultimately treated or disposed of in an approved solid water disposal site and facility.

(xiv) Water supply.

The amounts and source of water for use on site for the control of nuisance conditions, fire protection, construction purposes and personnel use shall be presented.

(xv) Inspection. The applicant shall submit to routine inspections of the transfer station facilities conducted at reasonable times by the City.

(IV) Portions of these requirements may be waived or modified by City Council in writing as long as the performance of the site under the altered requirement is as protective of public health and the environment as these regulations.

(V) Failure of the applicant to comply with all of the provisions of the operating plan submitted to the City pursuant to Subsection III, after the approval of the special use permit by the City is a violation of this Section, and shall subject the applicant to the penalty set forth in Section 1-8 of this code, and shall be grounds for the revocation of the special use permit.

(2) The Commission may prescribe any conditions on any use approved by special permit which may be deemed necessary for compatibility within the I - Industrial Zone District.

Section 14-69. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows: No structure shall exceed five (5) stories or fifty feet (50') in height.

Section 14-70. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

- (1) Minimum floor area: No minimum requirements.
- (2) Minimum lot area: No minimum requirements.
- (3) Minimum lot frontage: No minimum requirements.
- (4) Minimum front yard: No minimum requirements except as may be specified by the Commission.
- (5) Minimum rear yard: No minimum requirements except as may be specified by the Commission.
- (6) Minimum side yard: No minimum requirements except as may be specified by the Commission.

Section 14-71. Industrial performance standards.

All industrial and commercial businesses, whether established as a use by right, condition, or special permit, shall comply with the following standards to provide that these uses do not create any danger to safety in surrounding areas, do not cause water pollution and do not create offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences beyond the boundaries of the property in which such uses are located, and shall not be operated in any manner so as to constitute a public nuisance or hazard.

- (1) Volume of sound generated: Every use shall be so operated that the volume of sound inherently and recurrently generated does not exceed sixty (60) decibels with a maximum increase of five (5) decibels permitted for a maximum of fifteen (15) minutes in any one (1) hour at any point of any boundary line of the property on which the use is located.

(2) Vibration generated: Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point of any boundary line of the property on which the use is located.

(3) Emission of smoke and particulate matter:

(a) Every use shall be so operated that it does not emit smoke exceeding a density of No. 1 on the Ringleman Chart.

(b) Every use shall be so operated that it does not emit particulate matter exceeding 0.2 grains per cubic foot of flue gas at a stack temperature of 500E F.

(c) Every use which is an existing or potential source of air contamination shall be subject to the approval of the Colorado Department of Health, Air Pollution Control Division.

(d) Emission of heat, glare, radiation and fumes: Every use shall be so operated that it does not emit an obnoxious or dangerous degree of heat, glare, radiation or fumes beyond any boundary line of the property on which the use is located and shall conform to the standards established by the Colorado Department of Health.

(4) Outdoor storage and waste disposal:

(a) No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same property as the tanks or drums of fuel are excluded from this provision.

(b) All outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.

(c) No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces.

(d) All materials or wastes which might constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

(e) In addition to these regulations, all storage of flammable explosive or dangerous materials shall be subject to all applicable State Laws concerning such.

(5) Water pollution: No water pollution shall be emitted by manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the Building Inspector, the Colorado Department of Health and the local health authority, and in compliance with the regulations of the Environmental Protection Agency before operation of the facilities may begin, including all percolation or ground water tests as may be required.

(6) Other regulations: Regulation pertaining to landscaping, buffer strips or setbacks may be issued by the Commission.

DIVISION 11. ZONE DISTRICT REGULATIONS FOR THE PUD - PLANNED UNIT DEVELOPMENT DISTRICT. (Ord. 1897, eff., 5/14/10)

Section 14-72. Purpose.

The planned unit development district is enacted pursuant to the Planned Unit Development Act of 1972, as amended (§ 24-67-101, et seq., C.R.S.), to provide an alternative to the conventional approach to zoning by permitting flexibility and innovation in design, density, functional uses, placement of buildings, provision of parks and open space, circulation patterns, common facilities, signage and off-street parking areas, and to encourage a more creative approach to development and redevelopment in Trinidad. (Ord. 1897, eff. 5-14-10)

Section 14-73. Uses permitted by right.

Unless explicitly specified in an ordinance to establish or revise a specific planned unit development, the following uses shall be permitted by right (Ord. 1897, eff. 5-14-10):

- (1) Single-family dwellings.
- (2) Multi-family dwellings.
- (3) Mobile home parks and mobile home subdivisions, provided the planned unit development district contains a mixture of uses including modular dwellings and multi-family dwellings in addition to mobile homes.
- (4) Business, professional and semi-professional offices.
- (5) Medical clinics and pharmacies operated in conjunction with a clinic.
- (6) Retail specialty or boutique shops including businesses offering personal services.
- (7) Community service agency.
- (8) Day nursery.
- (9) Buildings and uses customarily incident to the uses permitted by this district.

SECTION 14-74. CONDITIONAL USES. (Ord. 1938, Sec 14-74 repealed and reenacted, eff. 5/31/13)

Unless explicitly specified in an ordinance to establish or revise a specific planned unit development, the following uses shall be permitted as conditional uses to be approved separately by the Planning Commission:

- (1) Lodging establishments.
- (2) Convention centers and public gathering spaces.

- (3) Museums, theaters and/or similar uses.
- (4) Restaurants, taverns and similar uses.
- (5) All businesses and retail uses that are not permitted by right and not prohibited by the City of Trinidad.
- (6) Churches and schools or other public or other semi-public uses.
- (7) Wholesaling of products, provided storage space does not exceed one thousand five hundred (1,500) square feet.
- (8) Fabrication or assembling incidental to retail sales from the premises, provided that not more than twenty-five percent (25%) of the floor area occupied by such businesses is used for manufacturing, processing, assembling, treatment installation, and repair of products.
- (9) Any kind of scientific research or manufacture, compounding, assembling, processing, fabrication, packaging or treatment of products, manufacturing or processing industries.
- (10) Mortuary or embalming establishment or school.
- (11) Mini-warehouses, which must be in accordance with Section 14-103 of Division 14.
- (12) Wireless telecommunications towers and facilities, which must be in accordance with Article 8 of Chapter 14.
- (13) Electric substations and gas regulator stations.
- (14) Fire stations, police stations and telephone exchanges.
- (15) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.

Section 14-75. Maximum density, height and area regulations.

- A. The residential density of a planned unit development district shall be set forth in the ordinance establishing or revising the planned unit development district. The overall average density of the total residential area within any planned unit development district shall not exceed twenty-five (25) dwelling units per acre of residential area.
- B. The minimum area for any newly created free-standing planned unit development district is one (1) acre.
- C. Except as provided in Section 14-101, the height and area regulations for uses within a planned unit development district are as follows:
 - (1) No detached single family dwelling shall exceed two and one-half (2 1/2) stories, or twenty-five feet (25') in height.

- (2) No attached single or multiple family dwelling shall exceed three and one-half (3 1/2) stories or thirty-five feet (35') in height.
- (3) No commercial or industrial use shall exceed five (5) stories or fifty feet (50) in height.
- (4) Minimum lot area: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (5) Minimum lot frontage: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (6) Minimum front yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district. Motor fuel pumps shall not be erected less than twenty-five feet (25') from the front property line.
- (7) Minimum rear yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (8) Minimum side yard: No minimum requirements, but shall be specified in the ordinance establishing or revising a planned unit development district.
- (9) Minimum floor area for each individual residential dwelling:
 - (a) Studio/efficiency units or one (1) bedroom units – 650 square feet.
 - (b) Two (2) bedroom units – 800 square feet.
 - (c) Three (3) bedroom units – 900 square feet.
 - (d) Four (4) or more bedroom units – 1,000 square feet. (Ord. 1897, eff. 5-14-10)

Section 14-76. Standards and design requirements.

- (1) General standards for the planned unit development district: The following general standards shall be followed regarding the planning, design, and construction of the planned unit development district (Ord. 1897, eff. 5-14-10):
 - (a) The planned unit development district shall be consistent with the Comprehensive Plan of the City of Trinidad, and with other applicable plans and policies adopted by the City Council.
 - (b) The planned unit development district shall be designed in such a manner that, wherever possible, it protects the environmental, historical, and cultural assets of the City including considerations of elements such as environmental pollution, streams and storm drainage courses, scenic vistas and viewsheds, and historic preservation.

- (c) The planned unit development district's relationship to its immediate surroundings shall be considered in order to avoid or mitigate adverse effects to surrounding development caused by traffic circulation, building height or bulk, lack of screening, or other impacts.
 - (d) The planned unit development district design and construction plans shall take into account characteristics of soils, slopes, geological hazards, and flood hazards in a manner intended to protect the health, safety, and welfare of potential users of the planned unit development district. These aspects of the plan must be accompanied by a detailed soil engineering, storm drainage and flood report on the suitability of the area for the intended use before a building permit may be issued. The City may waive such reports for previously developed areas.
 - (e) Design and construction of the planned unit development district shall include adequate, safe, and convenient arrangements for pedestrian circulation, roadways, driveways, off-street parking, and loading space(s).
 - (f) Setbacks and lot widths shall be as required by the City Council. In designing their projects, developers must propose setbacks and lot widths that ensure proper ventilation, light, air, adequate access, fire protection, utility service, storm drainage, and snow melt between buildings.
- (2) Requirements regarding the site. The following requirements shall be observed regarding the site of the planned unit development district: Planned open spaces within the planned unit development district, including those open spaces being used as public or private recreation sites or open space easements, and common areas shared by multiple owners shall be protected by adequate covenants running with the land, or by conveyances or dedications.
 - (3) Requirements regarding buffering between residential and nonresidential uses to mitigate potential nuisances: Minimum distances, landscaped bufferyards and/or opaque fencing may be required to minimize the impacts that nonresidential uses may have on residential uses and/or between differing residential densities within the planned unit development district or adjacent to the planned unit development district.
 - (4) Requirements regarding parks, school sites, and other public areas:
 - (a) Residential uses located within planned unit development districts shall meet the requirements of Section 14-10, Dedication of Land for Mini-Parks, Neighborhood Parks, Community Parks, District Parks in the Form of Trails, and Regional Open Space; Reservation of Land for Public Uses, as applicable.
 - (b) The City Council may require additional recreational amenities within the planned unit development district for residents of such a district, and may require that up to twenty-five (25%) of the planned unit development district area be set aside for park, playground, open space, school site or other public use, in addition to public streets. (Ord. 1938, Sec. 17-76(4)(b), repealed and reenacted eff. 5/31/13)
 - (5) Off-street Parking: The off-street parking regulations contained in Section 14-100 shall govern the provision of off-street parking in a planned unit development district, except that

the City Council may require the provision of off-street parking in existing buildings for residential uses.

- (6) Circulation: Circulation shall be determined by a review of each planned unit development district. The planned unit development district must have an adequate and engineered internal street circulation system approved by a professional traffic engineer licensed in the State of Colorado. All planned unit development applications must also include a traffic report produced by a professional traffic engineer licensed in the State of Colorado. Public streets must serve all structures and uses within the planned unit development district. However, private roads may be permitted if they meet minimum construction standards, can be used by public safety vehicles for emergency purposes, and provided that each structure or use in the planned unit development district is served by off-street loading spaces or service areas. A traffic report produced by a professional traffic engineer licensed in the State of Colorado must accompany all applications. (Ord. 1938, Sec. 17-76(6), repealed and reenacted eff. 5/31/13)
- (7) Signs: Unless otherwise approved by the City Council, the sign regulations contained in Division 13 of this Article shall govern signage in a planned unit development district.
- (8) The City Council may require additional design requirements as it deems necessary to ensure that the planned unit development district complements or protects the surrounding area and complies with the City's Comprehensive Plan.
- (9) All uses, whether by right or condition, shall be, at a minimum, regulated by the Industrial Performance Standards as set forth in Section 14-71.

Section 14-77. Procedure.

The following procedure shall be observed when a Planned Unit Development proposal is submitted for consideration (Ord. 1897, eff. 5-14-10):

- (1) Pre-application conference: A pre-application conference shall be held with the Planning Director in order for the applicant to become acquainted with planned unit development district procedures and related requirements.
- (2) Formal application: An application for approval of a planned unit development district may be filed by a person having an interest in the property to be included in the planned unit development district. The application will be made on a form provided by the City and must include a consent by the owners of all property to be included. The application must be accompanied by a preliminary development plan and a written statement.
 - (a) Preliminary development plan - The preliminary development plan shall show the major details of the proposed planned unit development prepared at an engineering scale of not less than 1" = 100', and shall be submitted in sufficient detail to evaluate the land, planning, building design, and other features of the planned unit development district. The Plan must contain, insofar as applicable, the following minimum information:

- (I) The existing topography of the land at 2 foot (2') contour intervals.
 - (II) Proposed land uses.
 - (III) The location of all existing and proposed buildings, structures, and improvements.
 - (IV) The maximum height of all buildings.
 - (V) The density and type of dwellings.
 - (VI) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas, and major points of access to public rights-of-way.
 - (VII) The location, height, and size of proposed signs, lighting and advertising devices.
 - (VIII) A park land proposal, including areas which are to be conveyed, dedicated or reserved as general open space, common park areas, including public parks and recreational areas, and as sites for schools or other public buildings.
 - (IX) Areas subject to a 100-year flooding cycle.
 - (X) General plans relating to landscaping.
 - (XI) The proportion of land to be left in a natural condition as open space, stated in terms of acreage or square footage, as well as the ratio of open space in areas to be developed stated on a square feet per unit basis.
 - (XII) If required by the City, traffic impact studies, market studies regarding the proposed use(s), and other similar studies prepared by licensed professionals.
- (b) Written statement: The written statement to be submitted with the planned unit development application must contain the following information:
- (I) A statement of the present ownership and a legal description of all the land included in the planned unit development district;
 - (II) An explanation of the objectives to be achieved by the planned unit development district, including building descriptions, sketches or elevations as may be required to describe the objectives;
 - (III) A development schedule indicating the approximate date when construction of the planned unit development district or stages thereof can be expected to begin and be completed;
 - (IV) A description of snow removal methods or techniques to be utilized;

- (V) A description of the proposed method of providing ongoing (permanent) maintenance of all commonly-owned or used buildings, facilities, areas, and thoroughfares, and any private roads;
- (VI) A written statement by a licensed engineer(s) that shall describe and/or provide evidence of:
 - (A) The water source with adequate and dependable capacity to service the proposed planned unit development district at ultimate development in accordance with the provisions contained in C.R.S. 29-20-303 through 305;
 - (B) The proposed method(s) of sewage treatment and the location of plant and outfall;
 - (C) The soil, geological, and ground water conditions of the site;
 - (D) The manner in which storm drainage shall be handled;
 - (E) Copies of any special agreements, conveyances, restrictions, or covenants, which are to be recorded with the planned unit development district's final plat(s), and will govern the use, maintenance, and continued protection of the planned unit development and any of its common areas; and
 - (F) A list of the owners of abutting properties and properties located within 300 feet (300') of the property lines of the land included in the planned unit, and their addresses from available County records.
- (c) The applicant may submit any other information or exhibits he/she deems pertinent that will aid in evaluating his/her proposed planned unit development district.
- (d) The City may require additional information or exhibits from the applicant it deems is necessary in its consideration of the planned unit development district application.

Section 14-78. Review and approval.

The procedure to be followed with respect to review and approval of a planned unit development district shall be the same as that governing applications for the granting of zoning classifications or for the change thereof as set forth in this Article, except that the determination of the Planning Commission and the City Council in consideration of a planned unit development district shall be governed by the following additional standards and requirements (Ord. 1897, eff. 5-14-10):

- (1) The Planning Commission shall review the preliminary development plan to determine that it complies with the City's Comprehensive Plan and applicable City Codes and policies.
- (2) Within thirty (30) days after the public hearing, the Planning Commission shall forward a written report to the City Council recommending that the plan be approved, disapproved, or approved with modifications.

- (3) Within thirty (30) days or such additional time as the City Council deems necessary, after the receipt of the written report from the Commission, the City Council shall either approve, disapprove, or approve with modifications the application.
- (4) If the plan is approved, the subject area shall be designated and shown on the official zoning map as a planned unit development district if it is not already designated as such, and the legal description of the subject area shall be recorded so as to properly advise that the land is subject to a planned unit development district ordinance. (Ord. 1938, Sec. 14-78(4), repealed and reenacted, eff. 5/31/13)
- (5) Within six (6) months following approval of the preliminary plan, the applicant shall file with the Planning Commission a final development plan and any additional information which may be requested by the Commission. The Commission may authorize submission of the final development plan in stages. Upon approval of the final plan or portion thereof, the plan and all accessory documents shall be filed with the City Clerk as a matter of public record. If the applicant has not submitted such plan within the period provided, the Commission can initiate proceedings to remove the planned unit development district from the zoning map. The zoning district applicable before approval of the preliminary plan shall then be in effect.
- (6) The final development plan as approved by the Planning Commission shall be binding and shall not be changed during the construction of the planned unit development district except upon application to the appropriate agency under the following procedures:
 - (a) Minor changes in locations, siting, and bulk of structures or character of building may be authorized by the Commission during the final development plan review if required by circumstances not foreseen at the time the preliminary plan was approved.
 - (b) All other changes in use, any rearrangement in lots, or changes in the provision of open space must be made by the City Council under the procedures established in this Article for amendment of the zoning map.

SECTION 14-79. FAILURE TO MEET DEVELOPMENT SCHEDULE.

If the applicant has not begun construction in the planned unit development district within one (1) year after the approval of the final development plan or otherwise has failed to meet the approved development schedule, the Planning Commission shall initiate proceedings to revoke approval for the planned unit development district, except that for good cause shown by the applicant, it may extend the development schedule. Upon the completion of proceedings to revoke approval of the planned unit development, the zoning district applicable before approval of the preliminary plan shall then be in effect. (Ord. 1938, Sec. 14-79, repealed and reenacted, eff. 5/31/13)

SECTION 14-80. ZONING REVIEW.

At least once every two (2) years following the approval of a planned unit development district, the Planning, Zoning and Variance Commission shall review all building permits which have been

issued for the planned unit development district and shall examine the construction which has taken place on the site. If the Commission finds that the rate of construction has not met the approved development program or if there are found to be violations of any of the provisions of this Article or the terms or conditions of the planned unit development district approval, the Commission shall issue a report of said violations to the City Council. The City Council shall hold a hearing on the report of violations submitted by the Commission having first given notice to the planned unit development district applicant and all owners of abutting property. Upon review of the alleged violations, the City Council may, if it is deemed necessary, require that the appropriate action be taken to remedy the violations, amend or modify the planned unit development district, or revoke approval. (Ord. 1938, Sec. 14-80, repealed and reenacted, eff. 5/31/13)

Section 14-81. Completion of a planned unit development.

- (1) Upon request of the owner, the Planning Director shall issue a certificate certifying completion of the planned unit development, and shall note the issuance of the certificate on the zoning map and on the district's site plan (Ord. 1897, eff. 5-14-10).
- (2) After completion, the use of land and the construction, modification, or alteration of any buildings within the planned unit development district will be governed by the approved site plan.
- (3) Except as follows, no changes may be made in the district after its final development plan approval.
 - (a) Minor changes in the location, size, siting, or character of buildings or structures may be authorized by the Planning Director. No change authorized under this section may increase the size of any building or structure by more than ten percent (10%).
 - (b) All other changes in the district and to the district's site plan must be made under the procedures that are applicable to the initial approval of a planned unit development district.

Section 14-82. Conformance with subdivision regulations.

Any area proposed as a planned unit development district shall be subject to the requirements for review and approval under the subdivision regulations, except as provided in this Article. Such subdivision review may be carried out concurrently with consideration of the planned unit development district application as outlined in this Article (Ord. 1897, eff. 5-14-10).

Section 14-83. Subdivision and resale.

- (1) A planned unit development district shall be subdivided or re-subdivided for purposes of sale or lease, in accordance with the City's subdivision regulations. Potential owners of land or property located in a planned unit development district should be made aware of the district's requirements by the current owner prior to such purchase, as the new owners will be subject to those requirements.

- (2) The subdivision or re-subdivision may be approved if it does not change location of uses, and if it does not increase the overall residential density of the district and if the district, following the subdivision or re-subdivision, is in compliance with the standards required for that planned unit development district and for planned unit development districts provided in this Article (Ord. 1897, eff. 5-14-10).

Section 14-84. Fees for planned unit development district application.

Fees, as may be deemed necessary, to help defray the cost of processing, administering and enforcing the provisions contained in this Division 11 of this Article may be established by the City Council and shall be paid by the applicant upon submission of the indicated type of plan for review by the Commission (Ord. 1897, eff. 5-14-10).

DIVISION 12. ZONE DISTRICT REGULATIONS FOR THE HP - CORAZON DE TRINIDAD HISTORICAL PRESERVATION DISTRICT.

Section 14-85. Uses permitted by right.

- (1) All uses permitted in the CC - Community Commercial except churches and schools or other public or semi-public uses. (Ord. 1630, eff., 5/26/00)
- (2) All uses permitted in the NS - Neighborhood Service District.
- (3) All uses permitted in the HDR - High Density Residential District.
- (4) All uses permitted in the MDR - Medium Density Residential District.
- (5) Antique and art shops.
- (6) Museums, public or non-profit relating to the history and character of this District.
- (7) Accessory buildings and uses customarily incident to the uses permitted in this District.

Section 14-86. Conditional uses.

(1) The following conditional uses may be permitted within the Corazone de Trinidad Historical Preservation District:

- (a) Electric substations and gas regulator stations.
 - (b) Fire stations, police stations and telephone stations.
 - (c) Water reservoirs, water storage tanks, water pumping stations and sewer lift stations.
 - (d) Churches and schools or other public or semi-public uses.
- (2) For each instance, the Commission shall be provided with site development plans showing the

proposed development or use and its relationship to adjacent properties. The site development shall show existing contours of the site at two foot (2') intervals, the location of improvements on the site, the height and bulk of proposed structures, description and placement of screening or screen planting, availability of utilities if applicable, and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity.

Section 14-87. Building height limit.

Except as provided in Section 14-101, the height regulations are as follows:

- (1) No dwelling or accessory structure to a dwelling shall exceed three and one-half (3 ½) stories or thirty-five feet (35') in height.
- (2) No structure to be used for commercial purposes shall exceed five (5) stories or fifty feet (50') in height.

Section 14-88. Area regulations.

Except as provided in Section 14-101, the area regulations are as follows:

(1) Minimum floor area:

- (a) Eight hundred (800) square feet per single family dwelling.
- (b) Four hundred (400) square feet per multiple family dwelling unit.
- (c) No minimum requirements for commercial uses as set forth in the NS and CC Zone Districts.

(2) Minimum lot area:

- (a) Six thousand (6,000) square feet per dwelling.
- (b) For all conditional uses, six thousand (6,000) square feet unless otherwise specified by the Commission.
- (c) No minimum requirement for commercial uses as set forth in the NS and CC Zone Districts.
- (d) No minimum requirement for other uses by right listed in this Section 14-85.

(3) Minimum lot frontage:

- (a) Fifty feet (50') for residential uses.
- (b) No minimum requirement for commercial uses as set forth in the NS and CC Zone District.

(4) Minimum front yard:

- (a) Measured from the front property line, there shall be a front yard of not less than twenty-five feet (25') for all single family dwellings, unless otherwise specified by the Commission.
- (b) No minimum requirement for multiple family residential uses or commercial uses as set forth in the HDR, NS or CC Zone Districts, except for motor fuel pumps which shall be erected not less than twenty five feet (25') from the front property line.
- (c) No minimum requirement for other uses by right as listed in Section 14-85.

(5) Minimum rear yard:

- (a) Measured from the rear property line, every single family dwelling or accessory building thereto shall have a rear yard of not less than ten feet (10').
- (b) No minimum requirements for multiple family or commercial uses as set forth in the HDR, NS or CC Zone Districts.
- (c) No minimum requirement for other uses by right as listed in Section 14-85.

(6) Minimum side yard:

- (a) For single family dwellings measured from the side property lines, there shall be side yards of not less than ten feet (10') on each side of the lot.
- (b) No minimum requirements for multiple family or commercial uses as set forth in the HDR, NS or CC Zone Districts.
- (c) No minimum requirements for other uses by right as listed in Section 14-85.
- (d) For multiple family dwellings density shall not exceed twenty-five (25) dwelling units per acre of residential area.

DIVISION 12.1. ZONE DISTRICT REGULATIONS FOR THE HP- CORAZON DE TRINIDAD HISTORIC PRESERVATION MIXED-USE DISTRICT. (Ord. 1915, 7/1/11)

Section 14-88.1. Purpose.

To establish minimum regulatory standards for development in the HP – CORAZON DE TRINIDAD HISTORIC PRESERVATION MIXED-USE DISTRICT (herein referred to as the “District”) in furtherance of:

- (1) Preserving the historic character, pedestrian scale and architectural distinctiveness of the District;

- (2) Producing infill development that is architecturally compatible with the historic structures of the District;
- (3) Encouraging the development of traditional mixed-use buildings within the District;
- (4) Developing an urban form that is conducive to physical activity, alternative modes of transportation and increased opportunities for social interaction and community engagement; and
- (5) Implementing predictable, high-quality development in the District.

Section 14-88.2. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

- (1) **“Floor Area Ratio”** means the ratio of a building’s gross floor area to the area of the lot on which the building is located.
- (2) **“Gross Floor Area”** is the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include accessory parking, basements when at least one-half the floor-to-ceiling height is below grade, attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps and/or inner courts.
- (3) **“Mixed-Use Building”** means a building that contains at least one floor devoted to allowed nonresidential uses in accordance with Section 14-87 of this Division and at least one devoted to allowed residential uses in accordance with Section 14-87 of this Division.
- (4) **“Historic Structure”** means any structure that was substantially completed prior to 1950.

Section 14-88.3. Uses.

(1) Commercial Uses

Allowable Uses (P - Permitted by Right; C - Conditional Use; N - Not Permitted)		
<u>Commercial</u>		
Use	Street and Sub-Street Level	Above Street Level
Retail Sales	P	C
Wholesale Establishments:		
<i>Less Than or Equal to 1,500 Square Feet of Floor Area</i>	P	C
<i>Greater Than 1,500 Square Feet of Floor Area</i>	C	C
Business, Professional and Semi-Professional Services	P	P
Personal Services Including Health Clubs and Gyms	P	C

Eating and Drinking Establishments:		
<i>Restaurant</i>	P	C
<i>Tavern</i>	C	C
Art Galleries	P	C
Art Studios	C	P
Theater or Performance Art Center*:		
<i>Small (1-149 Seats)</i>	P	C
<i>Large (150+ Seats)</i>	C	C
Medical Services	C	C
Hotels and Other Lodging Establishments*:		
<i>Small (1-16 Rooms)</i>	P	P
<i>Large (17+ Rooms)</i>	C	C
Mortuary or Funeral Home	C	C
Vehicle Sales	C	N
Vehicle Repairs	P	N
Drive Through Facilities	N	N

*Theaters, performing art centers, museums, libraries, hotels and lodging establishments must feature first floor lobbies, restaurants and/or retail space along the property frontage.

(2) Industrial and Manufacturing Uses

Allowable Uses (P - Permitted by Right; C - Conditional Use; N - Not Permitted)		
<u>Industrial and Manufacturing</u>		
Use	Street and Sub-Street Level	Above Street Level
Fabrication or Assembling Incidental to Retail		
<i>Less Than or Equal to 25% of Total Floor Area</i>	P	C
<i>Greater Than 25% of Total Floor Area</i>	C	C
Brewery	C	C

(3) Residential Uses

Allowable Uses (P - Permitted by Right; C - Conditional Use; N - Not Permitted)
<u>Residential</u>

Use	Street and Sub-Street Level	Above Street Level
Apartments	C	P
Assisted Living	C	C
Nursing Home	C	C

(4) Public and Community Uses

Allowable Uses (P - Permitted by Right; C - Conditional Use; N - Not Permitted)		
<u>Public and Community</u>		
Use	Street and Sub-Street Level	Above Street Level
Government Offices and Services	C	C
Colleges, Universities and Public Schools	C	C
Libraries*	C	C
Museums*	P	C
Cultural Exhibits	C	C
Child Day Care	C	C
Religious Assembly	C	C
Parking Facilities (Not Ancillary to a Given Structure):	C	C
<i>Surface</i>	C	N

<i>Deck</i>	C	C
Parks and Recreational Facilities	C	C
Public Utilities:		
<i>Electric Substations</i>	C	C
<i>Gas Regulator Stations</i>	C	C
<i>Fire Stations</i>	C	C
<i>Police Stations</i>	C	C
<i>Telephone Exchanges</i>	C	C
<i>Water Storage Facilities</i>	C	C
<i>Water Pumping Stations</i>	C	C
<i>Sewer Lift Stations</i>	C	C

*Theaters, performing art centers, museums, libraries, hotels and lodging establishments must feature first floor lobbies, restaurants and/or retail space along the property frontage.

(5) Individual Levels in Mixed-Use Buildings

Individual levels in mixed-use buildings may not have a combination of residential uses and non-residential uses unless the non-residential uses are disconnected from the residential uses with separate points of ingress and egress.

Section 14-88.4. Conditional uses.

- (1) A non-conforming use associated with an historic structure in the District may be reestablished as a conditional use if the design of the historic structure reasonably implies the use of the structure and/or precludes the establishment of a conforming use within the District as defined in Section 14-88.3 of this Division.

- (2) For each proposed conditional use, the applicant shall provide the Commission with site development plans showing the proposed development or use and its relationship to adjacent properties. Said site development plans shall show existing contours of the site at two foot (2') intervals, the location of all structures and appurtenances, the location of improvements on the site, the height and bulk of proposed structures, description and placement of screening, availability of utilities if applicable and a statement of the time-sequence of development and environmental impact on properties in the immediate vicinity. The City may, within reason, prescribe any additional conditions regarding intensity, limitation of use, appearance, hours of operation, required open space or any other such condition which may be deemed necessary and in the public interest.

Section 14-88.5. Building and Area Regulations.

- (1) *Building Height*
No building or accessory to said building shall exceed five (5) stories or fifty (50) feet in height.
- (2) *Floor Area*
The maximum floor area ratio shall be [5.0] for all mixed-use buildings and [3.0] for all single-use buildings.
- (3) *Floor-to-Floor Height for Street Level Space*
All street level space must have a minimum floor-to-ceiling height of ten (10) feet.
- (4) *Minimum Residential Floor Area*
 - (a) Studio, efficiency or one (1) bedroom units – 650 square feet.
 - (b) Two (2) bedroom units – 800 square feet.
 - © Three (3) bedroom units – 900 square feet.
 - (d) Four (4) bedroom units – 1000 square feet
- (5) *Residential Density*
Residential density shall not exceed twenty-five (25) dwelling units per acre.
- (6) *Minimum Lot Area*
The minimum lot area shall be two-thousand five-hundred (2,500) square feet.
- (7) *Minimum Lot Frontage*
The minimum lot frontage shall be twenty-five (25) feet.
- (8) *Setbacks*
 - (a) Front
The front yard setback for structures in the District shall be zero (0) feet. The entire building façade must abut street side property lines.
 - (b) Side and Rear

No interior side yard setback or rear yard setback is required for structures in the District unless the property on which the structure is to be located abuts an alley or a fenestrated building face on one or more sides. The minimum setback shall be five (5) feet from all property lines that abut an alley or fenestrated building face.

Section 14-88.6. Parking

- (1) No off-street parking is required for non-residential uses in the District.
- (2) Off-street parking must be provided for all residential uses in accordance with the requirements of Section 14-100 of the City of Trinidad Code of Ordinances.

- (3) All off-street parking shall be located to the rear of the principal building and shall be screened with landscaping or a masonry wall so as to not be visible from any public right-of-way or residential zoning districts. A screening plan showing all proposed screening must be submitted with the land development and building permit applications.

Section 14-88.7. Architectural and Design Standards

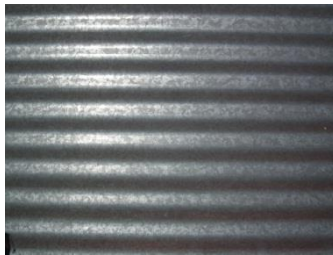
A detailed set of architectural drawings must be included with all land development and building permit applications. In addition to building massing, location and design, said architectural drawings must indicate all proposed building materials, architectural detailing, color schemes, street furniture, landscaping and all other significant design features in accordance with the following architectural and design standards:

- (1) Use of the following materials on building façades is prohibited:
- (a) smooth-faced concrete;
 - (b) concrete block;
 - (c) metal or vinyl siding; and
 - (d) materials of similar nature to those listed above.

Examples of façade materials that are prohibited in the Corazon de Trinidad Historic District



Smooth-Faced Concrete



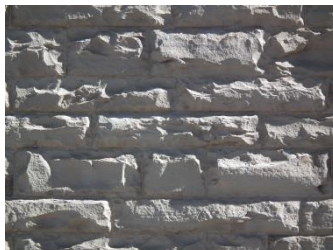
Corrugated Metal



Pre-Fabricated Metal Panels

- (2) The principal materials used on building façades shall be indigenous to the Corazon de Trinidad National Historic District, particularly high quality brick, stone and/or wood.

Examples of façade materials that are indigenous to the Corazon de Trinidad Historic District



Brick

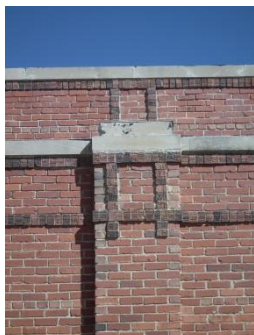
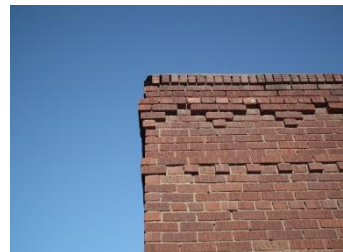
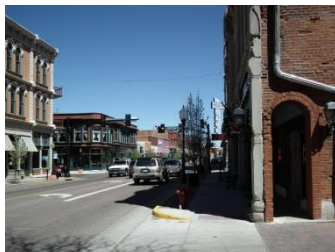
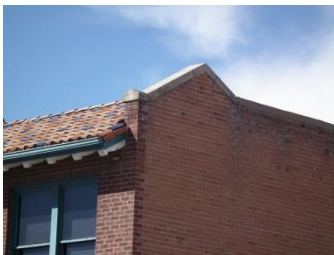
Stone

Wood

(3) Long blank walls are prohibited.

(4) Building façades shall be articulated by the use of architectural treatments characteristic of the Corazon de Trinidad National Historic District.

Examples of architectural treatments that are characteristic of the Corazon de Trinidad Historic District



(5) Building design must be characteristic of the Corazon de Trinidad National Historic District.

Examples of building designs that are characteristic of the Corazon de Trinidad Historic District



(6) Ground floor façades abutting public roads and/or parking lots shall feature display windows and entry areas on no less than sixty (60) percent of the horizontal façade length.

- (7) Ground floor display windows must be internally lighted, must have a minimum height of four (4) feet and may not be more than three and one-half (3.5) feet above the adjacent sidewalk measured from the bottom of the window.
- (8) Building façades shall have clearly defined customer entry areas that utilize distinguishing architectural features such as overhangs, recesses, arches, display windows and/or planters. Said entry areas must be located along a public sidewalk if possible.

Examples of storefronts and entry areas in the Corazon de Trinidad Historic District



- (9) Mechanical equipment such as HVAC units, solar panels or similar equipment must be located out of public view. Architecturally appropriate parapets must be used to conceal all rooftop equipment. The height of said parapets shall not exceed fifteen (15) percent of the supporting wall.
- (10) Overhanging eaves shall extend no more than three (3) feet past the supporting wall.
- (11) Sloping roofs must not exceed the average height of the supporting walls. All sloping roofs must feature a gutter system that prevents snow, water and debris from falling onto any adjacent sidewalk or public space.
- (12) No more than one curb cut will be allowed per building and curb cuts are not allowed for lots that abut alleys.
- (13) The façade design and material composition of all accessory structures must be compatible with the façade design and material composition of the main building.
- (14) All proposed street furniture and landscaping must be compatible with existing street furniture and landscaping in the District.

Examples of street furniture in the Corazon de Trinidad Historic District



14-88.8. Historic structure preservation, restoration and rehabilitation.

- (1) No historic structure located in the District may be demolished or otherwise removed unless said historic structure has been certified as both structurally compromised and irreparable by a structural engineer licensed in the State of Colorado.
- (2) Removal or alteration of any original architectural feature on an historic structure in the District is prohibited unless said architectural feature has been certified as both structurally compromised and irreparable by a structural engineer licensed in the State of Colorado. Significant architectural details include, but are not limited to:

- Roofs
- Exterior Walls
- Pediments
- Cornices
- Windows and Window Frames

- Belt Courses
- Transoms
- Piers
- Columns
- Doors
- Kickplates

(3) Repairs made to historic structures in the District must be made in accordance with the Secretary of the Interior's Standards for Rehabilitation:

The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

14-88.9. Signage.

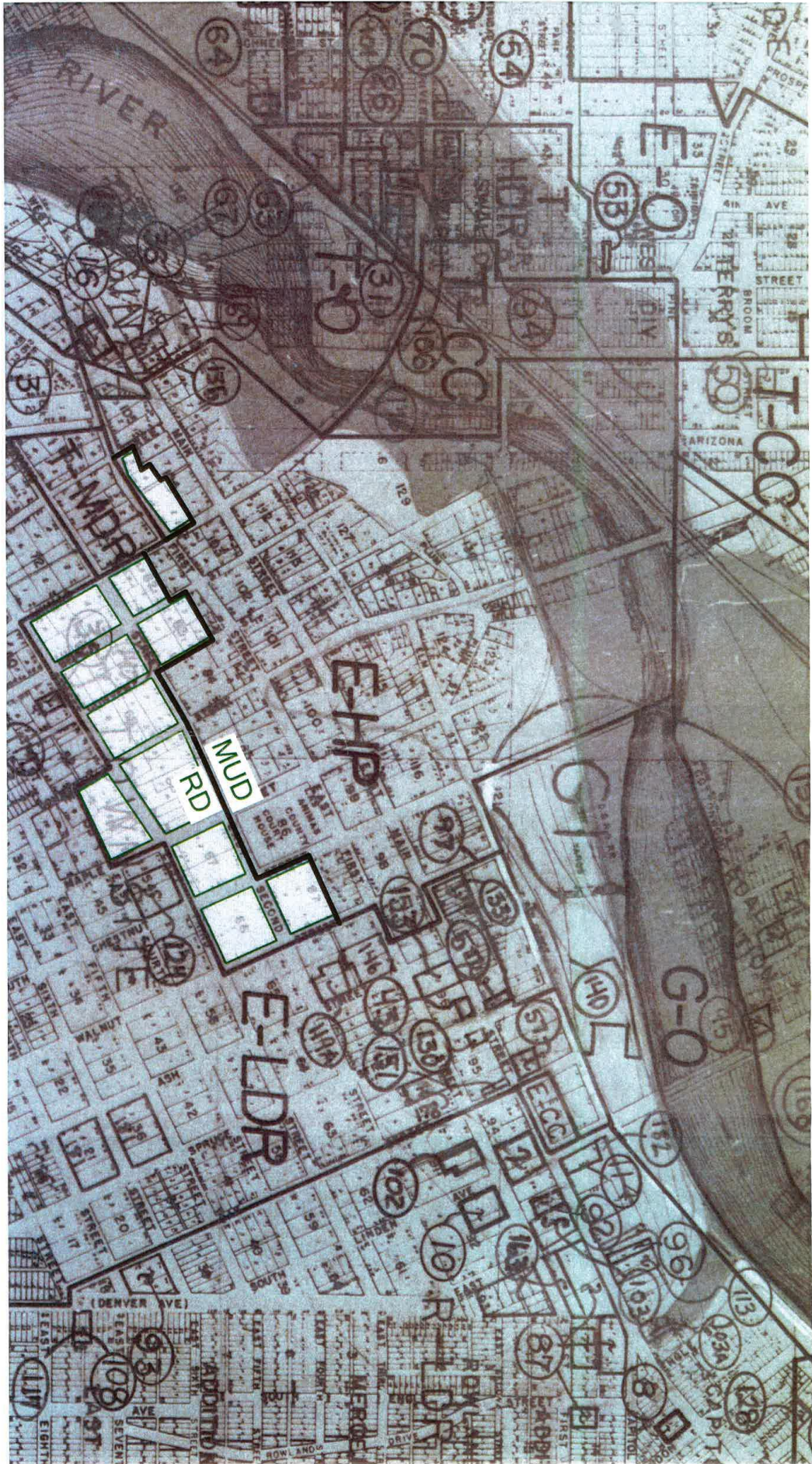
The requirements of Article 4, Division 13 of the City of Trinidad Code of Ordinances shall apply to all land development projects in the District. In addition:

- (1) A sign plan shall be included as part of all development proposals within the District;
- (2) Signs for all uses within a given development project must be uniform in style, materials and illumination and be compatible with and respectful of the historic nature of the District;
- (3) Sign location shall be limited to building surfaces, canopies, overhangs and behind storefront doors or display window glass. No freestanding and/or rooftop signs will be allowed in the District;
- (4) Replication of Trinidad’s historic painted signs is strongly encouraged on all new development projects.
- (5) Removal or destruction of painted ‘ghost’ signage on existing structures is prohibited.

Examples of signage that are characteristic of the Corazon de Trinidad Historic District



(ORD NO. 1915, Eff. 7-1-11)



DIVISION 13. SIGNS.

Section 14-89. "Signs" defined.

The term "*Signs*" shall include any writing (including letter, word or numeral), pictorial representation (including illustration or declaration), form (including shapes resembling any human, animal or product form), emblem (including any device, symbol, trademark, object or design which conveys a recognizable meaning, identity or distinction), or any other figure of a similar character which is a structure or any part thereof or is written, painted, projected upon, printed, designed into, constructed or otherwise placed on a building, board, plate or upon any material, object or device whatsoever, which by reason of its form, color, working, stereotyped design or otherwise, attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement, or announcement.

Section 14-90. Exclusions from definition.

The term "*signs*" shall not include the following:

- (1) Numbers used to identify street address.
- (2) Flags, pennants, or insignia of nations or an organization of nations, states or cities, or fraternal, religious and civic organizations, or any educational institutions, except when such flags are used in connection with a commercial promotion or as an advertising device.
- (3) Window displays incorporating placards, pennants, merchandise, pictures or models or products or service.
- (4) Works of art which do not identify a product or business and which are not displayed in conjunction with a commercial enterprise, which enterprise may benefit or realize a direct commercial gain from such display.
- (5) One (1) flush wall nameplate per public entrance per business of no more than two (2) square feet per face.
- (6) Temporary decorations or displays clearly incidental and customary and commonly associated with national, local or religious holiday celebrations.
- (7) Signs not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.
- (8) Traffic or other official signs of any public or governmental agency.
- (9) On-site traffic directional signs which do not exceed four (4) square feet per face or ten feet (10') in height and which do not carry any commercial message other than identification.
- (10) Temporary interior paper window signs.
- (11) Signs over gas pumps which indicate gas prices, provided that such signs shall be limited to

one (1) per pump island and shall be no larger than four (4) square feet per face.

(12) One (1) flush wall nameplate per business, not to exceed two (2) square feet in area, to be located at or near the rear entrance of such business.

Section 14-91. Sign definitions.

(1) ***Animated sign*** shall mean any sign or part of a sign which changes physical position by any movement, rotation or change of lighting.

(2) ***Building fascia*** shall mean that frontage of a building which faces and is parallel to a public or private street.

(3) ***Canopy sign*** shall mean a sign which is mounted on or beneath a permanently roofed shelter covering a sidewalk, driveway or other similar area, which shelter may be wholly supported by a building or may be partially supported by approved columns, poles or braces extended from the ground.

(4) ***Commercial use*** shall mean use of land upon which a structure may be located in a commercial zone district where such commercial use is permitted.

(5) ***Display surface or face*** shall mean the area of a sign structure for the purpose of displaying a message or advertising a product or service.

(6) ***Flashing sign*** shall mean any directly or indirectly illuminated sign either stationary or animated, which exhibits changing natural or artificial light or color effect by any means whatsoever.

(7) ***Flush wall sign*** shall mean any sign attached to or erected against the wall or parapet wall of a building or structure which extends no more than twelve inches (12") from the wall surface upon which it is attached and whose display surface is parallel to the face of the building to which the sign is attached.

(8) ***"For Sale" or "For Rent" sign*** shall mean a sign indicating the availability for sale, rent or lease of a specific lot, building or portion of a building upon which the sign is erected or displayed.

(9) ***Freestanding sign*** shall mean a detached sign which is supported by one (1) or more columns, uprights, poles or braces extended from the ground or from an object on the ground, or a detached sign which is erected on the ground, provided that no part of the sign is attached to any part of the building, structure or other sign.

(10) ***Ground sign*** shall mean a type of freestanding sign which is erected on the ground and which contains no free air space between the ground and the top of the sign.

(11) ***Illuminated sign*** shall mean a sign lighted by or exposed to artificial lighting either by lights on the sign or directed towards the sign.

(12) ***Industrial use*** shall mean use of land upon which a structure may be located in an Industrial Zone District or PUD Zone District where industrial use is permitted.

(13) **Marquee sign** shall mean a sign identifying a specific motion picture or event which is subject to frequent change.

(14) **Permanent sign** shall mean a sign which is permanently affixed or attached to the ground or to any structure.

(15) **Projecting wall sign** shall mean any sign other than a flush wall sign which projects from and is supported by a wall or a building.

(16) **Residential zone district** shall mean any zone district where residential use is permitted.

(17) **Rooftop sign** shall mean a sign erected upon or above a roof or above a parapet wall of a building.

(18) **Sign face** shall mean the display of the sign upon, against or through which the message is displayed or illustrated.

(19) **Sign with backing** shall mean any sign that is displayed upon, against or through any material or color surface or backing that forms an integral part of such display and differentiates the total display from the background against which it is placed.

(20) **Sign without backing** shall mean any word, letter, emblem, insignia, figure or similar character or group thereof that is neither backed by, incorporated in, nor otherwise made a part of any larger display area.

(21) **Wind driven sign** shall mean any sign consisting of two (2) or more banners, flags, pennants, ribbons, spinners, streamers, captive balloons or other objects or material fastened in such a manner as to move, upon being subjected to pressure by wind or breeze.

(22) **Window sign** shall mean a sign which is applied or attached to, or located within three feet (3') of the interior of a window, which sign can be seen through the window from the exterior of the structure.

Section 14-92. General regulations.

The following rules shall apply to signs in all zone districts:

(1) The erection, remodeling or removal of any permanent sign, except that which appears in the window or on the door of a business establishment, stating the name only of said business establishment, shall require a permit from the Building Inspector.

(2) All sign permit applications shall be accompanied by detailed drawings indicating the dimensions, location and engineering of the particular sign and plot plan when applicable. Signs may be erected after compliance with the following:

(a) Proper submission of application on form obtained from Building Inspector.

(b) Issuance of permit by Building Inspector.

(3) All exterior signs shall be permanent in nature, except "for sale" and "for rent" signs which shall not exceed six (6) square feet per face, shall be limited to one (1) sign per lot, and political signs.

(4) Political signs shall be of a temporary nature, shall not exceed thirty-two (32) square feet per face, shall not be allowed in any zone more than ninety (90) days prior to and fifteen (15) days following the election to which it relates, and shall not be illuminated.

(5) No sign shall be placed on government-owned property without permission of the appropriate governmental entity or on private property without permission of the owner thereof. Such signs shall be subject to immediate removal and confiscation by the appropriate governmental entity or private property owner.

(6) Any sign attached to a tree, utility pole or to the face of another sign is prohibited.

(7) Rooftop signs and all other signs which project above the fascia wall, revolving and rotating signs, strings of light bulbs not permanently mounted on a rigid background used in connection with commercial premises for commercial purposes (other than traditional holiday decorations), posters and wind driven signs (except banners and pennants) are prohibited.

(8) Flashing, moving, blinking, chasing or other animated effects are prohibited on all signs, except time and temperature signs.

(9) Freestanding signs shall be engineered to withstand a wind load of thirty (30) pounds per square foot.

(10) All signs shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust resistant metals.

(11) The Building Inspector shall inspect and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance or disrepair.

Section 14-93. Measurement of signs.

The following rules shall apply to the measurement of signs in all districts:

(1) The total surface area of all sign faces of freestanding signs, ground signs and projecting wall signs shall be counted and considered a part of the maximum total surface area allowance.

(2) The area of all signs with backing or a background that is part of the overall sign display shall be measured by determining the sum of the area of each square, rectangle, triangle, portion of a circle or any combination thereof which creates the smallest single continuous perimeter enclosing the extreme limits of the display surface or face of the sign, including all frames and backing.

(3) The area of all signs without backing or background that is part of the overall sign display shall

be measured by determining the sum of the area of each square, rectangle, triangle, portion of a circle or any combination thereof which creates the smallest single continuous perimeter enclosing the extreme limits of each word, written representation (including any series of letters), logo or figure of similar character.

Section 14-94. Limitations based on zone district.

Signs shall be permitted in the different zone districts as accessory uses in accordance with the regulations contained in this Section.

(1) Limitations in all zone districts:

- (a) One (1) identification sign per one-family or two-family dwelling, provided such sign does not exceed two (2) square feet in area per face.
- (b) One (1) identification sign per multiple-family dwelling, provided such sign does not exceed twenty (20) square feet in area per face and has only indirect illumination.
- (c) One (1) identification sign during the first two (2) years of construction of a new subdivision, provided such sign does not exceed one hundred (100) square feet in area per face, and is unlighted and is located within that subdivision.
- (d) One (1) sign per entrance to the property identifying a subdivision or housing project, provided such sign does not exceed thirty-five (35) square feet in area per face and has only indirect illumination.
- (e) One (1) identification sign per child care center, provided such sign does not exceed ten (10) square feet in area per face and is unlighted.
- (f) One (1) identification sign per home occupation use. Such sign shall not exceed six (6) square feet in area per face and shall be unlighted.

(2) Limitations in any commercial or industrial zone district: (Ord. 1645, eff., 10-13-00)

Flush wall signs, projecting wall signs, window signs, canopy signs, freestanding signs and ground signs are permitted in any zone districts where commercial or industrial uses are allowed, subject to the following limitations and restrictions:

- (a) Maximum area permitted shall be equal to two (2) square feet of sign area for every lineal foot of building fascia length.
- (b) For hotels and motels, total sign area shall not exceed one hundred fifty (150) square feet.
- (c) For the purpose of this subsection, the sign allowance shall be calculated on the basis of the length of the one building fascia, which is most nearly parallel to the street it faces.

(I) In the event the building occupies a corner lot and has frontage on two (2) public

streets, the total allowance of both frontage shall be calculated to determine permitted sign area.

(II) In the event the building does not have frontage on a dedicated public street, the owner of the building may designate the one (1) building fascia which shall be used for the purpose of calculating the sign allowance.

(III) In all other cases, the sign allowance for a building may be distributed in any manner among its fascia except that no one fascia may contain more sign area than that provided in this Section.

Section 14-95. Limitations based on type of sign.

(1) Freestanding and ground signs:

In addition to the limitations and regulations contained in Section 14-92, and to the extent they are applicable, the limitations and regulations contained in Section 14-94, the following limitations shall apply to all freestanding and ground signs:

(a) Size, height and location:

(I) Freestanding signs shall comply with the following requirements with respect to size, height and location:

REQUIREMENTS FOR FREESTANDING SIGNS

<u>Maximum Height</u> <u>Above Grade</u> (feet)	<u>Minimum Setback</u> <u>From Street</u> <u>Right-of-way Line</u> (feet)
less than 30	0
30 - 42	5
42 - 55	10

The maximum height permitted for any freestanding sign is fifty-five feet (55'). Any freestanding sign lawfully erected prior to the effective date of this ordinance with a height of greater than fifty-five feet (55') may be maintained and operated after the effective date of this ordinance until such time that the business or commercial enterprise it identifies or advertises no longer exists at its current location. (Ord. 1681, eff., 2-15-02)

(II) Signs erected within fifty feet (50') (measured along the street right-of-way) of the intersection of a street with another street or a driveway, which exceed forty-two inches (42") in height, shall be set back at least fifteen feet (15') from the street right-of-way or shall maintain free air space between a height of forty-two inches (42") above the adjacent street elevation and a height of seventy-two inches (72") above said elevation.

(III) No freestanding or ground sign shall be erected within five feet (5') of any interior side lot line.

(IV) Single-faced freestanding and ground signs shall be set back from the street right-of-way line according to the provisions of this Section. Any such setback shall be measured from the street right-of-way line at the street to which the sign face is most nearly parallel.

(V) When any freestanding or ground sign is placed at a forty-five degree (45E) angle on property located at the intersection of two (2) dedicated streets, the required setback may be measured from either of the street right-of-way lines.

(b) All electrical service provided to freestanding signs or ground signs shall be underground.

(2) Projecting wall signs:

In addition to the limitations and regulations contained in Section 14-92, and to the extent they are applicable, the limitations and regulations contained in Section 14-94, the following limitations and regulations shall apply to all projecting wall signs:

(a) Projecting wall signs shall not project over any public property, including public rights-of-way, more than three feet (3').

(b) In addition, no projecting wall sign shall extend more than six feet (6') from the face of the building from which it is supported.

(c) Only materials as permitted by the Uniform Building Code (U.B.C.) Vol. V - Signs, governing structural requirements, shall be used in the manufacture and erection of projecting wall signs. The design and construction of electrical signs shall be in accordance with the requirements set forth by the U.B.C., Vol. V - Signs, Chapter 4, and shall be approved by the Building Inspector.

(d) Illumination of a projecting wall sign may be both indirect and direct. However, illumination shall not exceed twenty-five (25) watts per bulb.

(3) Window signs:

In addition to the limitations and regulations contained in Section 14-92, and to the extent they are applicable, the limitations and regulations contained in Section 14-94, the following limitations and regulations shall apply to all window signs:

(a) The area of a window sign shall be the area of a rectangle, square, triangle, portion of a circle, or any combination thereof, which completely encloses the sign or letters which are painted, attached or placed within three feet (3') of the interior of a window.

(b) Maximum sign area permitted for window signs shall be as follows:

- (I) Residential home occupation use, six (6) square feet.
- (II) Commercial and neighborhood services, forty percent (40%) of window area.
- (III) Industrial use, forty percent (40%) of window area.

(c) In all cases, the sign allowance for any window area may be distributed in any manner among its windows except that the total window area for all signs may not contain more sign area than that provided by (b) above.

(4) Flush wall signs:

In addition to the limitations contained in Section 14-92, and to the extent they are applicable, the limitations and regulations contained in Section 14-94, the following limitations and regulations shall apply to all flush wall signs:

(a) Only one (1) flush wall sign is permitted per business, but may be constructed in one (1) or more parts, provided that it conveys one (1) unified message. Where an establishment has additional exterior walls which are immediately adjacent to a street or thoroughfare (corner building), each such wall may have one (1) flush wall sign.

(b) The area of a flush wall sign shall be all that area within its borders which completely encloses the sign or letters which are attached to the face of the building. The background area of a sign shall not be included in sign area when such background is an integral part of the design of the building. The area of a primary flush wall sign may not exceed the maximum area set forth in this Section. The area of a secondary sign may not exceed fifty percent (50%) of the allowable sign area for the primary sign, except that the area of each secondary sign may be increased in the amount that the area of the primary sign is decreased.

(c) A flush wall sign in a commercial zone district may not project more than twelve inches (12") from the wall to which it is attached (except marquees). Where one establishment shares a common wall with another, a flush wall sign may not be placed closer than one foot (1') to the adjoining establishment.

(d) Illumination of flush wall signs may be from a concealed source only, which does not flash, blink or fluctuate, and may not be animated.

(5) Canopy signs:

In addition to the limitations and regulations contained in Section 14-92, and to the extent they are applicable, Section 14-94, the following limitations and regulations shall apply to all canopy signs:

(a) A canopy sign may have only one (1) row of letters no more than twelve inches (12") in height.

(b) A canopy sign must be placed so as to allow a minimum of seven feet (7') of head clearance.

(6) Off-premise signs:

Signs may not be located on premises to which they do not relate unless a variance has been obtained for such purpose. (Ord. 1645, eff., 10-13-00)

Section 14-96. Non-conforming signs.

(1) Definition of *non-conforming sign*: A non-conforming sign is any sign which either:

(a) On the effective date of Ordinance Number 1256, was lawfully erected in accordance with the provisions of any prior zoning regulations or sign code, but which sign does not conform to the limitations and regulations established by that ordinance thereto; or

(b) On or after the effective date of Ordinance Number 1256, was lawfully erected and maintained in accordance with the provisions of that Ordinance, but which sign, by reason of an amendment to said Ordinance after the effective date thereof, does not conform to the limitations established by the amendment to said Ordinance in the district in which the sign is located.

(2) Continuation of non-conforming signs:

Any non-conforming sign may be continued in operation and maintained after the effective date of Ordinance Number 1256, provided, however, that no such sign shall be changed in any manner that increases the non-compliance of such sign with the provisions of said Ordinance established for signs in the district in which the sign is located.

(3) Discontinuation of non-conforming signs:

Termination of non-conforming signs shall be required in the event of the occurrence of any of the following:

(a) By abandonment - Abandonment of a non-conforming sign shall terminate immediately the right to maintain such sign.

(b) By violation of the Ordinance - Any violation of Ordinance Number 1256 subsequent to the effective date of said Ordinance or any amendment thereto, shall terminate immediately the right to maintain a non-conforming sign.

(c) By destruction, damage or obsolescence - The right to maintain any non-conforming sign shall terminate and cease to exist whenever the sign is damaged or destroyed by any cause whatsoever, or becomes obsolete or sub-standard under any applicable ordinance of the City of Trinidad to the extent that the sign becomes a hazard or danger.

(d) By amortization - The right to maintain a non-conforming sign in use at the time of the effective date of Ordinance Number 1256 or any amendments thereto, shall cease at the expiration of two (2) years from such effective date.

(4) Penalty for non-compliance:

Failure to modify any non-conforming sign so as to conform to Ordinance Number 1256 or any amendments thereto, or to remove such sign within the above stated period of time shall be construed to be a violation of the provisions of this Division and shall subject any person in violation to the penalties set forth in Section 14-98.

(5) Annexation and non-conforming signs:

All existing signs with flashing, moving, blinking, chasing, or other animated effects not in conformance with the provisions of this Division and located on property annexed to the City after the effective date of Ordinance Number 1256, shall be modified so that such flashing, moving, blinking, chasing or other animated effects shall cease within sixty (60) days after such annexation.

Section 14-97. Abandoned, damages, destroyed or hazardous signs.

(1) Abandoned sign - Definition:

An *abandoned sign* is any sign identifying or advertising a business or commercial enterprise which either no longer exists or has moved from the place where the sign is located.

(2) Abandoned signs:

(a) The owner of any property upon which an abandoned sign is located, shall be required to remove such sign within ninety (90) days of the abandonment or within ninety (90) days of the effective date of Ordinance Number 1376, whichever is later.

(b) Notwithstanding Paragraph (a) of this Subsection, any person owning real property upon which an abandoned sign is located, who has received a notice directing removal of said sign by the Building Inspector pursuant to Section 14-98, shall be afforded an opportunity to petition the City Council to waive the provisions of Paragraph (a) on the basis of historical significance. Such petition must be filed with the City Clerk no later than thirty (30) days following the issuance of the Notice by the Building Inspector. The City Council may in its discretion waive the requirements of Paragraph (a) upon a finding that said sign has historical significance and ought to be preserved.

(3) Damaged, destroyed or hazardous signs.

Any sign which is damaged, destroyed or otherwise becomes hazardous or dangerous, constitutes a public nuisance. The owner of the property upon which such sign is located shall therefore be subject to the abatement procedures set forth in Sections 16-64, 16-65 and 16-67 of the Code of Ordinances.

Section 14-98. Enforcement.

(1) Should any person, firm or corporation actually begin the erection, construction or painting of a sign for which a permit is required by this Division without taking out a permit therefor, he/she shall be required to pay any fees for this purpose imposed by the City Council by ordinance.

(2) Penalty.

(a) Whenever the Building Inspector shall find a violation of any of the provisions of this Division, he/she shall notify the person responsible for the violation in writing and shall order the necessary corrections within a period of thirty (30) days.

(b) Failure to comply with any of the provisions of this Division shall constitute a misdemeanor, and upon conviction, is punishable by a fine of not more than Three Hundred Dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both. Each day that such a violation continues to exist shall be considered a separate offense.

(3) No permit shall be required for repairs that do not in any way alter the exterior appearance of a sign, or for repainting it the same color so as to keep such sign in good repair.

(4) The Building Inspector shall have the authority to allow repair, maintenance, printing and minor changes. The Building Inspector will make determination as to what areas of repair, maintenance, printing or minor changes require a permit.

Section 14-99. Exception or variance to sign regulations.

Consideration for the granting of an exception or variance from the provisions of this Division shall be in accordance with Section 14-117.

DIVISION 14. SUPPLEMENTARY REGULATIONS.

Section 14-100. Off-street parking.

(1) No building shall be erected, unless there is provided on the lot, space for the parking of automobiles or trucks and space for loading and unloading in accordance with the following minimum requirements:

(a) Bowling alley: Five (5) parking spaces for each alley.

(b) Business, professional or public office building studio, bank, medical or dental clinic: Three (3) parking spaces plus one (1) additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000).

(c) Church: One (1) parking space for each four (4) seats in the main auditorium.

(d) College or school: One (1) parking space for each eight (8) seats in the main auditorium or three (3) spaces for each classroom, whichever is greater.

(e) Community center, library or museum: Ten (10) parking spaces plus one (1) additional space for each three hundred (300) feet of gross floor area in excess of two thousand (2,000) square feet.

(f) Dwellings - single family: One (1) parking space for each dwelling unit.

- (g) Dwellings (single or multiple family) from 0 to 10 dwellings per acre of residential area: One (1) parking space for each dwelling unit.
- (h) Dwellings (single or multiple family) from 11 to 25 dwellings per acre of residential area: One and one-half (1 ½) parking spaces for each dwelling unit.
- (i) Hospital, sanitarium, home for the aged, or similar institution: One (1) parking space for each three (3) beds.
- (j) Hotel: One (1) parking space for each sleeping room or suite plus one (1) space for each two hundred (200) square feet of commercial floor space contained therein.
- (k) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment: One (1) parking space for every two (2) employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
- (l) Mortuary or funeral home: One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors, and individual funeral service rooms.
- (m) Private club or lodge: Five (5) parking spaces plus one (1) additional space for each two hundred (200) square feet of floor in activity and meeting rooms.
- (n) Restaurant, night club, café or similar recreation or amusement establishment: One (1) parking space for each one hundred (100) square feet of gross leasable area.
- (o) Retail store or personal service establishment: One (1) parking space for each two hundred (200) square feet of gross leasable area.
- (p) Rooming house, lodging house, fraternity or sorority: One (1) parking space for each two (2) beds.
- (q) Sports arena, stadium or gymnasium (except school): One (1) parking space for each five (5) seats or bench seating spaces.
- (r) Theater or auditorium (except school): One (1) parking space for each five (5) seats or bench seating spaces.
- (s) Outdoor or mixed facilities and combinations of any permitted uses: A sufficient number of spaces which will, in the determination of the Planning, Zoning and Variance Commission, make reasonable and adequate provision for the highest expected volume of users. Such determination may be based upon the following:
- (I) The designed capacity of such facilities.
 - (II) An overall plan for concentration or concentrations of parking with appropriate consideration of designed landscaping and relation to the surroundings.
 - (III) Trade-off, or alternating use of parking area(s) by uses occurring during

different hours, seasons, or days.

(IV) For Planned Unit Developments, cluster developments or other types of design innovations, the required off-street parking shall be as required above for each separate use. In addition, demonstration of sufficient parking facilities must be made to satisfy other needs or uses as may be developed in the PUD or other type of design development. Also the Commission may set forth any additional parking requirements which, in its opinion, may be needed to satisfy the parking demand for any use developed in the PUD.

(2) Parking Space Reduction for Mixed-Use Development

(a) Purpose:

Shared parking arrangements can reduce impervious surface area by allowing a reduction in the number of parking spaces required for a single use where the parking associated with that use is shared with one or more adjacent uses. Shared parking arrangements also increase efficiency in land use and encourage mixed-use development.

(b) Definitions:

I. Mixed-Use Development – A site-specific development that contains a combination of two or more commercial, industrial and/or residential uses. In order to be included in a mixed-use development for the purposes of this section, an individual use may not be located more than five hundred (500) feet from the nearest site-specific shared parking space.

(c) Mixed-Use Development Parking Requirement Reductions:

A reduction in the total number of parking spaces required for all non-residential uses within a mixed-use development, as calculated in accordance with and pursuant to Section 14-100(1) above, is allowed in accordance with the requirements of this section. To be considered for a parking reduction, the applicant must submit an aggregate parking demand analysis for the proposed mixed-use development that includes the hours of peak demand for each individual use. Said analysis must be prepared by a traffic engineer licensed in the State of Colorado and must utilize the latest parking demand analysis methodology as published by the Institute of Traffic Engineers (“ITE”), the Urban Land Institute (“ULI”) or other source acceptable to the Planning, Zoning and Variance Commission.

Alternatively, the applicant may reduce the total amount of required parking spaces in a mixed-use development in accordance with the following methodology from the Urban Land Institute’s shared parking standards:

(1) Determine the minimum parking space requirements for each individual use within the mixed-use development in accordance with and pursuant to Section 14-100(1).

- (2) Multiply the required minimum number of parking spaces for each individual use by the applicable percentages for each of the five time periods set forth in Table 1 below.
- (3) Add the required minimum number of parking spaces for all individual uses in each of the five vertical columns of Table 1.
- (4) Select the vertical column with the highest total.
- (5) Use this number as the required minimum number of parking spaces for the mixed-use development.

Table 1: Urban Land Institute’s Shared Parking Ratios

SHARED PARKING RATIOS (Numbers Are Listed As Percentages)					
Use	WEEKDAY			WEEKEND	
	Morning 12:00 am – 6:00 am	Day 9:00 am – 4:00 pm	Evening 6:00 pm – 12:00 pm	Day 9:00 am – 4:00 pm	Evening 6:00 pm – 12:00 pm
Office	5.0 %	100 %	10 %	10 %	5.0 %
Retail	5.0 %	60 %	90 %	100 %	70 %
Restaurant	10 %	50 %	100 %	100 %	100 %
Entertainment	10 %	40 %	100 %	80 %	100 %
Hotel	75 %	75 %	100 %	75 %	100 %
Others	100 %	100 %	100 %	100 %	100 %

- (d) **Maximum Parking Space Reduction for Mixed-Use Developments:**
In no instance shall any parking reduction exceed thirty percent (30%) of the sum total of the required parking spaces for all individual uses as calculated in accordance with Section 14-100(1) above.
- (e) **Americans with Disabilities Act (ADA):**
For the purposes of this section, no reduction in the number of required ADA-compliant parking spaces are permitted.
- (f) **Residential Parking in Mixed-Use Developments:**
No reductions in the required number of parking spaces are permitted for residential uses located within mixed-use developments. Parking spaces for residential uses within mixed-use developments must be provided in accordance with the requirements of Section 14-100(1) above and must be clearly marked as reserved for residential use.
- (g) **Reserved Parking for Non-Residential Uses within Mixed-Use Developments:**

Non-residential parking spaces in a shared parking facility associated with a mixed-use development may not be reserved for individual uses.

(h) Reciprocal Parking Agreements:

A reciprocal written agreement must be executed by all property owners within a mixed-use development that assures the perpetual joint use of all shared parking and contains a provision for the maintenance of the shared parking facility. A copy of said agreement must be submitted to the City of Trinidad Planning Department for review and approval. Said agreement must be recorded as a deed restriction on all properties within the mixed-use development and cannot be modified or revoked without the consent of the Planning Director. If any requirements for shared parking are violated, the affected property owners must provide a remedy satisfactory to the Planning Director or provide the full amount of required parking for each use in accordance with the requirements of Section 14-100(1) above. (Ord. 1921, eff. 11/12/11)

Section 14-101. Additional height and area regulations.

The following additional height and area regulations shall apply to all zone districts as set forth in this Article:

(1) Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, wireless towers, grain elevators, or necessary mechanical appurtenances may exceed the maximum height regulations of the zone district in which they are located provided the maximum height for the use under question is set by the Commission, but in no instance shall such use exceed one hundred feet (100') in height.

(2) Hospitals, institutions or schools, when permitted in a zone district, may exceed the maximum height regulations of the zone district in which they are located provided the maximum for the use under question is set by the Commission, but in no instance shall such use exceed forty-five feet (45') in height.

(3) For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one (1) building occupying one lot unless developed as a Planned Unit Development.

(4) Unless authorized by the Commission, no basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

(5) An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet (10'). An unenclosed vestibule containing not more than forty (40) square feet may project into a front yard for a distance not to exceed four feet (4').

(6) Open-lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Building Inspector for a distance of not more than three and one-half feet (3 ½') and where the same are so placed as not to obstruct light and ventilation.

(7) Terraces, uncovered porches, platforms and ornamental features which do not extend more than

three feet (3') above the floor level of the ground story may project into a required yard provided these projections be at least two feet (2') from the adjacent side lot line.

(8) Established front yards may be adjusted according to prevailing setbacks in the following cases:

(a) Where forty percent (40%) or more of the frontage on the same side of a street between two intersecting streets is developed with two (2) or more buildings that have (with a variation of five feet (5') or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yard so established by the existing building nearest the street line.

(b) Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with two (2) or more buildings that have a front yard of less depth than herein required and a building is to be erected on a parcel of land that is within one hundred feet (100') of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent buildings on each side. If a building is to be erected on a parcel of land that is within one hundred feet (100') of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(c) The required side yard on the street side of a corner lot shall be one-half (1/2) the required front yard on such street, provided that no adjacent structures front on the same street, in which case the entire required front yard must be provided, and no accessory building shall project beyond the required front yard on either street.

(d) Where lots have double frontage, the required front yards shall be provided on both streets.

Section 14-102. Basic considerations for conditional uses and uses by special permit.

Any conditional use or use by special permit allowed in the various zone districts as provided in this Article shall be subject to the following basic considerations and other considerations as may be deemed necessary by the Commission in order to protect the general health, safety, welfare and morals of the area in which a conditional use may be located.

(1) That such use does not create any danger to safety in surrounding areas, does not cause water pollution and does not create offensive noise, vibration, smoke, dust, odors, heat, glare, snow storage problems, or other objectionable influences beyond the boundaries of the property on which such use is located.

(2) That upon the discretion of the Commission a written explanation may be required indicating the methods to be used to minimize smoke, odors, dust, and similar environmental and snow storage problems which might result from the operation of the proposed conditional use.

(3) Special permits shall be approved only after a public hearing notification of such which has been published in a newspaper of general circulation at least fifteen (15) days prior to the hearing.

Section 14-103. Mini-warehouses

(1) Purpose.

The purpose of this Section is to describe the requirements for the approval of the use of property for mini-warehouse development. Mini-warehouse clients are home dwellers, and people living in small homes. Other customers include small commercial clients, local merchants, small contractors, and professionals. Storage limitations in current housing developments have generated a public need for a place to store excess property or seasonal goods. Because of the unique problems peculiar to mini-warehouse development, the procedures and requirements set forth in this section are established to enable the evaluation of proposals for such developments in relation to compatibility with surrounding properties and to ensure that adequate provisions are made for such factors as, but not limited to, exterior appearance, landscaping and screening, on-site parking and circulation, fire protection, outdoor storage, public improvements, the types of items that can be stored, and use limitations of the storage. (Ord. 1704, eff., 9-27-02)

(2) Definitions.

Dead Storage - Goods not in use and not associated with any office, retail or other business use on premise in a self-storage facility or structure. (Ord. 1704, eff., 9-27-02)

(3) Development review applications.

Applications for a conditional use permit for a mini-warehouse development shall be made by the property owner or his agent to the Planning Commission on forms prescribed for this purpose by the Planning Department. Outdoor storage is to be considered a separate conditional use requiring a separate permit. Outdoor storage is not allowed on a mini-warehouse site unless specifically addressed during the conditional use process. (Ord. 1704, eff., 9-27-02)

(4) Planning Commission action.

The Commission, by conditional use permit, may authorize as a sole use, mini-warehousing and outdoor storage only in the following districts:

- I - Industrial zone district;
- HDR - High Density Residential zone district;
- CC - Community Commercial zone district. (Ord. 1704, eff., 9-27-02)

(5) Lot Requirements.

- (a) Lot size to be a minimum of one-half (1/2) acre. (Ord. 1704, eff., 9-27-02)
- (b) Lot coverage to be a maximum of fifty percent (50%). (Ord. 1704, eff., 9-27-02)

(6) Development regulations.

- (a) A mini-warehouse shall be located contiguous to a public right-of-way. (Ord. 1704, eff., 9-27-02)

(b) All buildings shall be set back not less than twenty-five feet (25') from a right-of-way when located in any zone district. There shall be a twenty-foot (20') building setback line from all other property boundaries. (Ord. 1704, eff., 9-27-02)

(c) Where the parcel is adjacent to an LDR, MDR, HDR, MHR, PUD, HP, or RE district, a 20-foot landscaped yard shall be provided on the parcel adjacent to the district and a 20-foot landscaped front yard shall be provided when within 100 feet of an LDR, MDR, HDR, MHR, PUD, HP or RE district or when across the street from such districts. Landscaping shall be in addition to any architectural screening type fence. Such fence, when required, shall be solid or semisolid and constructed to prevent the passage of debris or light and constructed of either brick, stone, architectural tile, masonry units, wood, or other similar material (not including woven wire) and shall not be less than five feet nor more than eight feet in height. (Ord. 1704, eff., 9-27-02)

(d) Residential quarters for a manager or caretaker may be included within the mini-warehouse development. (Ord. 1704, eff., 9-27-02)

(e) Parking: Each mini-storage facility shall provide two parking spaces for the manager or caretaker unit and a minimum of five spaces located adjacent or in close proximity to the manager's unit for customer parking. No off-site parking will be accepted for parking requirements. (Ord. 1704, eff., 9-27-02)

(f) Driving/loading lanes shall be a minimum of twenty-two feet (22') in width when cubicles open onto one side of the lane only and a minimum of thirty feet (30') when cubicles open onto both sides of the lane. Driveway corners shall have a minimum thirty-foot (30') radius. Dead end driveways shall in no instance exceed in length the requirements of the Fire Code and in instances that dead end driveways exceed one hundred fifty feet (150') in length; same shall be reviewed and approved in writing by the local Fire Dept. (Ord. 1704, eff., 9-27-02)

(g) An emergency ingress/egress may be required in addition to at least one main ingress/egress for customer use. (Ord. 1704, eff., 9-27-02)

(7) Use Restrictions

No activities other than rental of storage units and pick-up and deposit of dead storage shall be allowed within the self-storage complex. Other permitted uses may be allowed on the property subject to all applicable Zoning District Regulations. General commercial uses set out under the Community Commercial Zoning District are permitted on residual commercially zoned acreage that is not involved in the mini-storage complex. Watchman's or manager's quarters are permitted subject to compliance with residential building code requirements. Examples of activities prohibited at Self-Storage Facilities include, but are not limited to, the following: (Ord. 1704, eff., 9-27-02)

(a) Commercial wholesale or retail sales, or miscellaneous auctions and garage sales prohibited except for the purpose of foreclosure liquidation by a proprietor. (Ord. 1704, eff., 9-27-02)

(b) The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment. (Ord. 1704, eff., 9-27-02)

(c) The operation of power tools, spray-painting equipment, table saws, lathers, compressors, welding equipment, kilns or other similar equipment. (Ord. 1704, eff., 9-27-02)

(d) The establishment of a transfer and storage business. (Ord. 1704, eff., 9-27-02)

(e) Any use that is noxious or offensive because of odors, dust, noise, fumes or vibrations. (Ord. 1704, eff., 9-27-02)

(f) Storing of radioactive materials, explosives and flammable or hazardous chemicals. (Ord. 1704, eff., 9-27-02)

(g) Use as a residence or for housing animals is prohibited. (Ord. 1704, eff., 9-27-02)

(h) Utilizing the Self-Storage Facility for other than dead storage (see definition). (Ord. 1704, eff., 9-27-02)

(i) Outdoor storage of materials, including; boats, RV's, trailers, and similar vehicles are not allowed without specific conditional use approval. (Ord. 1704, eff., 9-27-02)

Note: All storage, rental or purchase contracts shall include the above listed restrictions. (Ord. 1704, eff., 9-27-02)

Section 14-104. Non-conforming uses and structures.

(1) Nonconformance. Certain uses of land and buildings may be found to be in existence at the time of passage of the Zoning Ordinance which do not meet the requirements as set forth herein. It is the intent of this Section to allow the continuance of such nonconforming use. However, the owner of each nonconforming use or property must register, with the City Council, the use of such property within one (1) year following the adoption of Ordinance Number 1032, and in addition, every five (5) years thereafter such nonconforming use or property must be verified by questionnaire from the City Council that such use is still operating and in existence on the property.

(2) Expansion or enlargement. Except as provided in the HP - Historic Preservation Zone District a nonconforming structure to be extended or enlarged shall conform with the provisions of this Article; a nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the enactment of the Zoning Ordinance.

(3) Repairs and maintenance. Except as provided in the HP - Historic Preservation Zone District the following changes or alterations may be made to a nonconforming building or to a conforming building housing a nonconforming use:

(a) Maintenance repairs that are needed to maintain the good condition of a building, except that if a building has been officially condemned, it may not be restored under this provision.

(b) Any structural alteration that would reduce the degree of nonconformance or change the use to a conforming use.

(4) Restoration or replacement.

(a) A nonconforming structure that is damaged to the extent that the cost of restoration to its condition before the occurrence (“original condition”) is less than fifty percent (50%) of the cost of replacing the entire structure may be restored to its original condition.

(b) A nonconforming structure that is damaged to the extent that the cost of restoration to its condition before the occurrence (“original condition”) exceeds fifty percent (50%) of the cost of restoring the entire structure may be restored to its original condition only if (i) it cannot reasonably be brought into conformance, in whole or in part, with the requirements of the applicable zoning district, and (ii) said restoration is completed within twenty-four (24) months of the date of damage.

(c) A nonconforming structure may be replaced only if (i) the structure cannot reasonably be brought into conformance, in whole or in part, with the requirements of the applicable zoning district, and (ii) said replacement is substantially completed within twenty-four (24) months of the date on which the building permit was issued.

(d) The cost of land or any factors other than the cost of the nonconforming structure are excluded in the determination of the cost of restoration for any nonconforming structure. (Ord. 1914, eff. 7/1/11)

(5) Discontinuance. Whenever a nonconforming use has been discontinued for a period of one (1) year, it shall not thereafter be re-established and any future use shall be in conformance with the provisions of this Article. (Ord.1914, eff. 7/1/11)

(6) Nonconforming lots. Nonconforming lots on record at the time of passage of the Zoning Ordinance may be built upon provided that all other relevant district requirements are met and the approval of the Commission is obtained.

(7) Change in nonconforming use. No nonconforming use of a building or lot may be changed to another nonconforming use. A nonconforming use of a building or lot may be changed to a conforming use.

(8) Construction prior to ordinance passage. Nothing herein contained shall require any change in plans, construction, or designated use of a building or structure for which a building permit has been issued or City approval obtained and construction of which shall have been diligently prosecuted within three (3) months of the date of such permit or approval.

(9) Special exceptions to provisions on expansion of nonconforming uses. The Commission may authorize, upon appeal in specific cases, an exception permitting an increase in either or both the land area or the floor area in a structure or structures occupied by a nonconforming use, subject to terms and conditions fixed by the Commission. Every exception authorized hereunder shall be personal to the applicant therefore and shall not be transferable, shall run with the land only after the construction of any authorized structure and only for the life of such structure. No exception shall be authorized hereunder unless the Commission shall find that all the following conditions exist:

- (a) That the use is a nonconforming use as defined by this Section and is in full compliance with all requirements of this Section applicable to nonconforming uses;
- (b) That, owing to exceptional and extraordinary circumstances, literal enforcement of the provisions of this Article regarding nonconforming uses will result in unnecessary hardship;
- (c) That the exception will not substantially or permanently injure the appropriate use of adjacent conforming property in the same zone district or other zone districts;
- (d) That the exception will not alter the essential character of the district in which is located the property for which the exception is sought;
- (e) That the exception will not weaken the general purposes of this Article or the regulations established herein for the specific district;
- (f) That the exception will be in harmony with the spirit and purposes of this Article;
- (g) That the exception will not adversely affect the public health, safety, or welfare.

DIVISION 15. ADMINISTRATION.

Section 14-105. Enforcement.

The provisions of this Article shall be enforced by the City Council, the City Manager, the City Attorney, the City Planner, the City Building Inspector, and the City Code Enforcement Officers, by the following methods:

- (1) Inspection and ordering removal of violations.
- (2) Municipal Court prosecution.
- (3) Injunctive proceedings.

Section 14-106. City Planner.

The City Planner shall act as adviser to the Planning, Zoning and Variance Commission, and shall administer and enforce all zoning laws of the City of Trinidad. It shall be his/her duty to see that all land uses conform to the zoning laws of the City of Trinidad.

Section 14-107. Inspection.

The City Manager and his/her authorized representatives are hereby empowered to cause any building, other structure or tract of land to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any of the provisions of this Article within a reasonable period of time. After any such order has been served, no work may

proceed on any building, other structure or tract of land covered by such order, except to remedy or correct such violation.

Section 14-108. Penalty.

Failure to comply with all of the provisions of this Article shall constitute a misdemeanor and upon conviction is punishable by a fine of Three Hundred Dollars (\$300.00) or imprisonment for a period of not more than ninety (90) days or both. Each day that such a violation continues shall be considered a separate offense.

Section 14-109. Injunction.

In addition to any other remedies, the City Attorney, acting on behalf of the City Council, may maintain an action for an injunction to restrain any violation of this Article.

Section 14-110. Liability for damages.

This Article shall not be construed to hold the City of Trinidad or its authorized representatives responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or by reason of issuing a building permit.

DIVISION 16. AMENDMENTS.

Section 14-111. Authority.

Amendments to the Zoning Map shall be in accordance with the statutes of the State of Colorado, with report and recommendations from the Planning, Zoning and Variance Commission to the City Council required prior to the adoption of any such amendment.

Section 14-112. Declaration of policy and standards for rezoning. (Ord. 1529, eff., 4/13/96)

For the purposes of establishing and maintaining sound, stable and desirable development within the City of Trinidad, the rezoning of land is to be discouraged and allowed only under certain circumstances as provided hereafter. This policy is based on the opinion of the City Council that the City's zoning map is the result of a detailed and comprehensive appraisal of the City's present and future needs regarding land use allocation and, as such, should not be amended unless to correct a manifest error or because of changed or changing conditions in a particular area or the City in general. Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because of one or more of the following reasons:

- (a) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the City's comprehensive plan; or
- (b) The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or a new approach to development; or

(c) The proposed rezoning is necessary in order to provide land for a community related use which was not contemplated at the time of development of the comprehensive plan.

(2) In addition, no rezoning shall be allowed unless all of the following conditions are found to have been met:

(a) That a change in zoning will advance a more effective use of land in harmony with the City's comprehensive plan; and

(b) The public interest has been met.

(3) This declaration of standards for rezoning shall not control a rezoning which occurs incidentally to a comprehensive revision of the City's zoning map.

Section 14-113. Procedure for amendments in general.

The City Council may, from time to time, on its own motion, on petition of any person or persons in interest, or on initial recommendation of the Planning, Zoning and Variance Commission, amend, supplement or repeal the regulations and provisions of this Article, provided that where territory is sought to be rezoned on a proposal other than by the City Council or the Planning, Zoning and Variance Commission, the person proposing or petitioning for rezoning of territory shall have a property interest in the subject territory. The applicant shall submit a list of the abutting owners of record and their addresses from available County records.

(1) Planning, Zoning and Variance Commission advisory report. Any proposed amendment or change to this Article or to the Zoning Map when initiated by the City Council shall be referred to the Commission for an advisory report thereon. When a proposed amendment or change is initiated by the Commission, said advisory report shall accompany the initial recommendations of the Commission.

(2) Procedure before Planning, Zoning and Variance, Commission. Before giving an advisory report or initial recommendations on any proposed amendment to this Article, the Commission shall first conduct a public hearing thereon. Notice of the time and place of such hearing and a brief summary or explanation of the subject matter of the hearing shall be given by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

(3) Procedure before the City Council. After receiving the advisory report from the Planning Zoning and Variance Commission, the City Council shall hold a public hearing before acting on the proposed amendment to this Article or to the Zoning Map. Notice of the time and place of the public hearing before the City Council shall be given by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

Section 14-114. Amendments to the Official Zoning Map.

Any person petitioning for an amendment to the Official Zoning Map shall submit a petition to the

Planning, Zoning and Variance Commission through the City Planner.

(1) Planning, Zoning and Variance Commission advisory report. Any proposed amendment to the Zoning Map, when initiated by individual petition, shall be referred to the Planning, Zoning and Variance Commission for an advisory report thereon.

(2) Procedure before Planning, Zoning and Variance Commission. Before giving an advisory report or initial recommendation on any proposed amendment to the Zoning Map, the Planning, Zoning and Variance Commission shall first conduct a public hearing thereon. Prior to the public hearing, the applicant requesting amendment to the Zoning Map shall post his/her property with a sign, furnished by the Planning, Zoning and Variance Commission, notifying the general public of the time and place of the public hearing before the Planning, Zoning and Variance Commission at which said application for amendment shall be reviewed. Said sign shall be posted on the property frontage at intervals of approximately five hundred feet (500') at least fifteen (15) days prior to the scheduled hearing and shall recite the rezoning applied for. In addition, notice of the time and place of the public hearing before the Planning, Zoning and Variance Commission shall be given by the City Planner, by one publication of the same at least fifteen (15) days prior to the hearing in a newspaper of general circulation in the City of Trinidad.

(3) Procedure before the City Council. After receiving the advisory report from the Planning, Zoning and Variance Commission, the City Council shall hold a public hearing before acting on the proposed amendment. Notice of the time and place of the public hearing before the City Council shall be given by the City Planner by one publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the City of Trinidad.

Section 14-115. Data to be submitted.

Prior to any consideration for amendment to the Official Zoning Map, the petitioner shall file the following data with the Planning, Zoning and Variance Commission at least ten (10) days prior to the scheduled date of Planning, Zoning and Variance Commission review:

- (1) Certified survey and legal description by a registered land surveyor or professional engineer.
- (2) Proposed method of water supply and sewage disposal.
- (3) Snow storage facilities and removal.
- (4) Other such site plans or drawings to show a demonstrated need for zoning change.
- (5) The following additional data may be required to accompany the petition for any zone change:
 - (a) A site plan showing location of structures, number of dwelling units per structure, existing contours at an interval of 2 feet (2'), location of open space to be retained, location of off-street parking spaces, location of common areas and their proposed usage.
 - (b) Evidence of availability of public water and sewer facilities. Such evidence shall be in the form of a written commitment by a municipal or quasi-municipal agency stating that such

service will be available to the property.

(c) In the event a private water and sewer system is proposed, a written engineering report shall be submitted assuring the availability of water and sewer service and written approval by the Colorado Department of Public Health and the local health authority.

(d) When a private water and sewer system is proposed, a surety bond in the amount of one hundred twenty-five percent (125%) of the estimated cost of such system shall be made in favor of the City of Trinidad and presented at the public hearing concerning the proposed zoning change. Such bond will be held until construction of said system is completed and approved by the Colorado Department of Public Health and the local health authority. In lieu of a surety bond, the City Council may authorize other such proof of financing or security which will satisfy construction guarantees.

DIVISION 17. VARIANCE PROCEDURE.

Section 14-116. Powers of the Planning, Zoning and Variance Commission.

The City Planning, Zoning and Variance commission shall have, in addition to other powers set forth in this Chapter, the following additional powers:

(1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or determination made by an administrative official based on or made in the enforcement of the Zoning Ordinance.

(2) Hear and decide, grant or deny applications for variance from the provisions of the Zoning Ordinance. The Commission may also impose reasonable conditions and safeguards, as deemed necessary to address potentially adverse impacts upon adjacent property or the neighborhood.¹ However, the Commission may not grant variances from the provisions of the Zoning Ordinance governing the use or density of land or buildings, or the provisions governing Planned Unit Developments.

Section 14-117. Procedures.

In addition to any procedures the Commission may adopt by rule, the Commission shall conduct hearings and make decisions in accordance with the following requirements:

(1) The Commission shall schedule and hold a hearing on any appeal from an order, requirements, decision or determination made by an administrative official based on or made in the enforcement of the Zoning Ordinance, and on any application for variance.

(2) Public notice shall be given of all hearings and all hearings shall be open to the public.

(3) The Commission shall keep a record of the proceedings, either by sound recording or stenographically, and a copy of the sound recording and of any graphic or written material received in evidence shall be made available to any party for a reasonable fee.

(4) At the conclusion of any hearing or within not more than thirty (30) days thereafter, the

Commission shall render its decision either orally or in writing. Such decision must set forth findings of fact and conclusions based thereon. Conclusions based on any provision of the Zoning Ordinance, or on any rule or regulation, must contain a reference to such provision, rule, or regulation and the reason why the conclusion is deemed appropriate in light of the facts found.

Section 14-118. Criteria for consideration of variance requests.

The Commission may grant a variance only if it makes findings that all of the following requirements, insofar as applicable, have been satisfied:

- (1) That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property;
- (2) That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
- (3) That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of the Zoning Ordinance;
- (4) That such unnecessary hardship has not been created by the applicant;
- (5) That the variance, if granted, will not alter the essential character of the neighborhood, the Historic Preservation District, or other district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
- (6) That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provision which is in question.

Section 14-119. Effect of decision by the Planning, Zoning and Variance Commission.

The appellant or applicant shall be issued a copy of the written decision of the Commission or a written notice of the oral decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision shall be appealed to the Board of Appeals within fifteen (15) days of the issuance of the written decision or written notice of the oral decision in accordance with Section 14-139 of this Code, the decision shall become final at the end of the fifteen (15) day appeal period.

DIVISION 18. FEES FOR ADMINISTRATION OF THE ZONING ORDINANCE.

Section 14-120. Purpose.

The City Council may establish such fees as deemed necessary to carry out those functions of the Commission as set forth in this Section.

Section 14-121. Repealed. (Ord. 1523, eff., 12/30/95)

Section 14-122. Fees for outdoor advertising signs.

At the time of issuance of any permit for an Outdoor Advertising Structure Permit in any O - Open Zone District a fee of Ten and 05/100 Dollars (\$10.05) per square foot for each sign having a total face advertising area of thirty-two (32) square feet or more. The fee for each renewal of an Outdoor Advertising Structure Permit shall be Ten Dollars (\$10.00).

Section 14-123. Fee for Initial Zoning Classification or Rezoning. (Ord. 1523, eff., 12/30/95)

Any person or persons making application for initial zoning classification or classifications of lands being annexed into the City, or for rezoning of lands previously zoned by the City shall be required to pay an application fee of Five Hundred Dollars (\$500.00) to the City at the time application is made. Of the Fee, One Hundred Dollars (\$100.00) shall be non-refundable payment for the administrative costs. The remaining Four Hundred Dollars (\$400.00) shall be applied toward the City's publication costs incurred in connection with the application. If the publication costs are less than Four Hundred Dollars (\$400.00), the difference shall be refunded to the applicant. If the publication costs exceed Four Hundred Dollars (\$400.00), the applicant shall be required to make an additional payment to the city Equal to the amount by which publication costs exceed Four Hundred Dollars (\$400.00). The requirement to pay all costs due under this Section shall not be affected by the denial of any application.

Section 14-124. Repealed. (Ord. 1523, eff., 12/30/95)

Section 14-125. Variance fee. (Ord. 1523, eff., 12/30/95)

Any person or persons making application for variance from the Commission shall be required to make an application fee of Fifty Dollars (\$50.00) to the City at the time application is made. Twenty-Five Dollars (\$25.00) shall be a non-refundable payment for the administrative costs. The remaining Twenty-Five Dollars (\$25.00) shall be applied toward the City's publication costs incurred in connection with the application. If the publication costs are less than Twenty-Five Dollars (\$25.00), the difference shall be refunded to the applicant. If the publication costs exceed Twenty-Five Dollars (\$25.00), the applicant shall be required to make an additional payment to the City equal to the amount by which publication costs exceed Twenty-Five Dollars (\$25.00). The requirement to pay all cost due under this Section shall not be affected by the denial of any application. No appeal to the City Council of a denial of a request for variance shall be considered unless all fees due under this Section have been paid.

DIVISION 19. LEGISLATIVE PROVISIONS.

Section 14-126. Severability clause.

Should any section, clause, or provision of this Article be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Article as a whole, or any part thereof other than the part declared to be invalid.

Section 14-127. Conflict.

Whenever the requirements of this Article are in conflict with the requirements of any other ordinance, rule, regulation, private covenant, or deed restriction, the more restrictive or that imposing the higher standards shall govern.

Section 14-128. Interpretation.

In their interpretation and application, the provisions of this Article shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare.

Section 14-129. Repeal of conflicting ordinances.

All ordinances and parts of ordinances in conflict with Article, are, and the same hereby, are repealed.

ARTICLE 5. FLOOD DAMAGE PREVENTION.

(Ord. 1584, eff., 5/2/98, 12/8/98; Ord. 1692, eff., 6/28/02)

Section 14-130. Statutory Authorization, findings of fact, purpose and objectives.

(1) Statutory Authorization

The Legislature of the State of Colorado has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Trinidad, Colorado does ordain as follows:

(2) Findings of Fact

(a) The flood hazard areas of Trinidad are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from damage also contribute to the flood loss.

(3) Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

(4) Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 14-131. Definitions. (Ord. 1996, Sec 14-131 repealed and reenacted, eff. 12/1/15)

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY – A structure or related infrastructure, but not the land on which it is situated, as specified in Section 14-136.1, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 14-136.1.

DEVELOPMENT - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION-
The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: a. By an approved state program as determined by the Secretary of the Interior or;
b. Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA’s modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-

year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Section 14-132 General Provisions.

(1) Lands to which this Ordinance applies:

This ordinance shall apply to all areas of special flood hazards and areas removed from the floodplain by a Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City of Trinidad, Colorado. (Ord. 1996, Sec. 14-132(1) repealed and reenacted, eff. 12/1/15)

(2) Basis for establishing the areas of special flood hazard (Ord 1584, eff., 5-2-98)

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the City of Trinidad, Las Animas County, Colorado, dated January, 1978, with an accompanying Flood Insurance Rate Map (FIRM) is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at 135 North Animas Street, Trinidad, Colorado 81082. (Ord 1584, eff., 5-2-98)

(3) Compliance (Ord 1584, eff., 5-2-98)

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord 1584, eff., 5-2-98)

(4) Abrogation and greater restrictions (Ord 1584, eff., 5-2-98)

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord 1584, eff., 5-2-98)

(5) Interpretation (Ord 1584, eff., 5-2-98)

In the interpretation and application of this ordinance, all provisions shall be:(Ord 1584, eff., 5-2-98)

(a) Considered as minimum requirements: (Ord 1584, eff., 5-2-98)

(b) Liberally construed in favor of the governing body; and (Ord 1584, eff., 5-2-98)

(c) Deemed neither to limit nor repeal any other powers granted under State statutes. (Ord 1584, eff., 5-2-98)

(6) Warning and disclaimer of liability (Ord 1584, eff., 5-2-98)

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Trinidad, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.(Ord 1584, eff., 5-2-98)

Section 14-133 Administration.

(1) Establishment of development permit (Ord 1584, eff., 5-2-98)

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 14-132(2). Application for a development permit shall be made on forms furnished by the City Engineer and/or Public Works Director and may include, but not be limited to: (Ord 1584, eff., 5-2-98)

Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required: (Ord 1584, eff., 5-2-98)

(a) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures: (Ord 1584, eff., 5-2-98)

(b) Elevation in relation to mean sea level to which any structure has been flood-proofed; (Ord 1584, eff., 5-2-98)

(c) Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 14-134(2)(b); and, (Ord 1584, eff., 5-2-98)

(d) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. (Ord 1584, eff., 5-2-98)

(2) Designation of the Floodplain Administrator

The Public Works Director is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. (Ord. 1996, Sec. 14-133(2), repealed and reenacted, eff. 12/1/15)

(3) Duties & Responsibilities of the Floodplain Administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by this Article.

2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.

3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.

6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

7. When Base Flood Elevation data has not been provided in accordance with this Article, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of this Article.

8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. (Ord. 1996, Sec. 14-133(3), repealed and reenacted, eff. 12/1/15)

(4) Variance Procedure (Ord 1584, eff., 5-2-98)

(a) Variance Board (Ord 1584, eff., 5-2-98)

(1) The Planning, Zoning and Variance Commission, as established by the City of Trinidad, shall hear and decide appeals of interpretations of FIRM boundaries and request for variances from the requirements of this ordinance. (Ord 1584, eff., 5-2-98)

(2) The Planning, Zoning and Variance Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this ordinance. (Ord 1584, eff., 5-2-98)

(3) Those aggrieved by the decision of the Planning, Zoning and Variance Commission, or any taxpayer, may appeal such decisions to the City Council acting as the Board of Appeals. Decisions of Board of Appeals may be appealed to the District Court for the Third District Court as provided for by Colorado law. (Ord 1584, eff., 5-2-98)

(4) In passing upon such applications, the Planning, Zoning and Variance Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:(Ord 1584, eff., 5-2-98)

(i) the danger that materials may be swept onto other lands to the injury of others; (Ord 1584, eff., 5-2-98)

(ii) the danger to life and property due to flooding or erosion damage; (Ord 1584, eff., 5-2-98)

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners; (Ord 1584, eff., 5-2-98)

(iv) the importance of the services provided by the proposed facility to the

community; (Ord 1584, eff., 5-2-98)

(v) the necessity to the facility of a waterfront location, where applicable;(Ord 1584, eff., 5-2-98)

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage; (Ord 1584, eff., 5-2-98)

(vii) the compatibility of the proposed use with the existing and anticipated development; (Ord 1584, eff., 5-2-98)

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area; (Ord 1584, eff., 5-2-98)

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles; (Ord 1584, eff., 5-2-98)

(x) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and, (Ord 1584, eff., 5-2-98)

(xi) the costs of providing governmental service during after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges. (Ord 1584, eff., 5-2-98)

(5) Upon consideration of the factors of Section 14-133(4)(a)(4) and the purposes of this ordinance, the Planning, Zoning and Variance Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. (Ord 1584, eff., 5-2-98)

(6) The City Engineer and/or Public Works Director shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency. (Ord 1584, eff., 5-2-98)

(b) Conditions for Variances (Ord 1584, eff., 5-2-98)

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items (i-xi) in Section 14-133(4)(a)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases. (Ord 1584, eff., 5-2-98)

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places. (Ord 1996, Sec. 14-133(6)(b)(2), repealed and reenacted, eff., 12-1-15)

(3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. (Ord 1584, eff., 5-2-98)

(4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. (Ord 1584, eff., 5-2-98)

(5) Variances shall only be issued upon: (Ord 1584, eff., 5-2-98)

(I) a showing of good and sufficient cause; (Ord 1584, eff., 5-2-98)

(II) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (Ord 1584, eff., 5-2-98)

(III) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 14-133-(4)(a)(4) or conflict with existing local laws or ordinances. (Ord 1584, eff., 5-2-98)

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Ord 1584, eff., 5-2-98)

Section 14-134. Provisions for Flood Hazard Reduction.

(1) General Standards (Ord 1584, eff., 5-2-98)

In all areas of special flood hazards, the following standards are required: (Ord 1584, eff., 5-2-98)

(a) Anchoring (Ord 1584, eff., 5-2-98)

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads. (Ord 1584, eff., 5-2-98)

(2) All mobile or manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific

requirements may be: (Ord 1584, eff., 5-2-98)

(i) over-the-top ties be provided at each of the two four corners of the mobile or manufactured home, with two additional ties per side at intermediate locations, with mobile or manufactured homes less than 50 feet long requiring one additional tie per side. (Ord 1584, eff., 5-2-98)

(ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile or manufactured homes less than 50 feet long requiring four additional ties per side; (Ord 1584, eff., 5-2-98)

(iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds and; (Ord 1584, eff., 5-2-98)

(iv) any additions to mobile or manufactured home be similarly anchored. (Ord 1584, eff., 5-2-98)

(b) Construction Materials and Methods (Ord 1584, eff., 5-2-98)

(1) All new construction and substantial improvements shall be construction with materials and utility equipment resistant to flood damage. (Ord 1584, eff., 5-2-98)

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. (Ord 1584, eff., 5-2-98)

(3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord 1584, eff., 5-2-98)

(c) Utilities (Ord 1584, eff., 5-2-98)

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; (Ord 1584, eff., 5-2-98)

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and, (Ord 1584, eff., 5-2-98)

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord 1584, eff., 5-2-98)

(d) Subdivision Proposals (Ord 1584, eff., 5-2-98)

(1) All subdivision proposals shall be consistent with the need to minimize flood damage; (Ord 1584, eff., 5-2-98)

(2) All subdivision proposals shall have public utilities and facilities such as sewer,

gas, electrical, and water systems located and constructed to minimize flood damage; (Ord 1584, eff., 5-2-98)

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and (Ord 1584, eff., 5-2-98)

(4) Base flood elevation data shall be provided for all subdivision proposals. (Ord 1584, eff., 5-2-98)

(2) Specific Standards (Ord 1584, eff., 5-2-98)

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 14-132(2), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 14-133(3)(b), Use of Other Base Flood Data, the following provisions are required: (Ord 1584, eff., 5-2-98)

(a) Residential Construction

(1) New construction and substantial improvements of any residential structure shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation. (Ord 1996, Sec. 14-134(2)(a)(1), repealed and reenacted, eff., 12-1-15)

(2) Openings in Enclosures Below the Lowest Floor (Ord. 1692, eff., 6-28-02)

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

(ii) The bottom of all openings shall be no higher than one foot above grade;

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Below-Grade Residential Crawlspace Construction (Ord.1692, eff., 6-28-02)

New construction and substantial improvement of any below-grade crawlspace shall:

(i) Have the interior grade elevation, that is below base flood elevation, no lower than two feet below the lowest adjacent grade;

(ii) Have the height of the below grade crawlspace measure from the interior grade of the crawlspace to the top of the foundation wall, not to exceed four

feet at any point;

(iii) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood:

(iv) Meet the provisions of Section 14-134(1)(a), Anchoring; Section 14-134(1)(b), Construction Materials and Methods; and Section 14-134(2)(a)(2), Openings in Enclosures Below the Lowest Floor.

(b) Nonresidential Construction (Ord 1996, Sec. 14-134(2)(b), repealed and reenacted, eff., 12-1-15)

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) be flood-proofed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

(2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

(3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 14-133(3)(c)(2).

(c) Mobile or Manufactured Homes (Ord 1584, eff., 5-2-98)

(1) Mobile or manufactured homes shall be anchored in accordance with Section 14-134(1)(a)(2). (Ord 1584, eff., 5-2-98)

(2) All mobile or manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the mobile or manufactured home is at least one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system. (Ord 1996, Sec. 14-134(2)(c)(2), repealed and reenacted, eff., 12-1-15)

(d) Floodways (Ord 1996, Sec. 14-134(2)(c)(3) renumbered, eff., 12-1-15)

Located within areas of special flood hazard established in Section 14-132(2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply: (Ord 1584, eff., 5-2-98)

(a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the

occurrence of the base flood discharge. (Ord 1584, eff., 5-2-98)

(b) If Section 14-134(3)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 14-134, PROVISIONS FOR FLOOD HAZARD REDUCTION. (Ord 1584, eff., 5-2-98)

(e) Recreational Vehicles (Ord. 1996, eff. 12/1/15)

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- (a) Be on the site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use, or
- (c) Meet the permit requirements of this Section, and the elevation and anchoring requirements for "manufactured homes" in subsection (c) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section 14-135. Standards for Areas of Shallow Flooding (AO/AH Zones).

Located within the Special Flood Hazard Area established in this Article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Section 14-136.1, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures. (Ord. 1996, Sec. 14-135, eff. 12-1-15)

Section 14-136. Properties Removed from the Floodplain by Fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

1. RESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

2. NONRESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. (Ord. 1996, Sec. 14-136, eff. 12-1-15)

Section 14-136.1. Standards for Critical Facilities.

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. CLASSIFICATION OF CRITICAL FACILITIES

It is the responsibility of the City of Trinidad to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

(a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
- iii. Designated emergency shelters;
- iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Trinidad City Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Trinidad City Council on an as-needed basis upon request.

(b) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- iii. Refineries;
- iv. Hazardous waste storage and disposal sites; and
- v. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

(c) At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- i. Elder care (nursing homes);
- ii. Congregate care serving 12 or more individuals (day care and assisted living);
- iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

(d) Facilities vital to restoring normal services including government operations.

These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Trinidad City Council that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a

minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Trinidad City Council on an as-needed basis upon request.

2. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- (a) Location outside the Special Flood Hazard Area; or
- (b) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Trinidad City Council, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event. (Ord. 1996, Sec. 14-136.1, eff. 12-1-15)

ARTICLE 6. BOARD OF APPEALS.

Section 14-137. City Council designated as Board of Appeals.

The City Council is designated as the Board of Appeals for the City of Trinidad pursuant to Section 8.5 of the Charter of the City of Trinidad.

Section 14-138. Powers and duties.

The City Council, in its capacity as the Board of Appeals, shall hear and decide appeals from decisions of the City Planning, Zoning and Variance Commission either granting or denying requests for variances and with respect to applications for a conditional use or special use permit, and from orders of the Building Inspector to repair or demolish buildings. All decisions shall be final. (Ord. 1632, eff., 6/30/00)

Section 14-139. Appeals from Planning, Zoning and Variance Commission - Procedure.

Any person aggrieved by a decision of the Planning, Zoning and Variance Commission granting or

denying a variance request, or any officer or department of the City, may appeal such decision to the City Council. Any applicant for a conditional use or special use permit within a zone district whose application has been denied by the Planning, Zoning and Variance Commission or who is dissatisfied with the decision imposing conditions on the conditional or special use by the Planning, Zoning and Variance Commission, may appeal such decision to the City Council. Such appeal must be in writing and filed with the City Clerk no later than fifteen (15) days following the issuance of the decision by the Planning, Zoning and Variance Commission. The appeal shall contain, at a minimum, a brief statement setting forth the basis for the appeal. The City Clerk shall refer the appeal to the City Council, which shall schedule a hearing to be held no less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the City Clerk. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to the Appellant by the City Clerk, by causing a copy of such notice to be delivered to the Appellant personally or by mailing a copy thereof, postage prepaid, addressed to the Appellant at his/her address as shown on the appeal. The City Planner shall be served with the notice in the same manner. In the case of an appeal of a variance decision, the person who requested the variance shall also be served in the same manner. Notice of such hearing shall also be published at least ten (10) days prior to the date of the hearing. (Ord. 1632, eff., 6/30/00)

Section 14-140. REPEALED. (Ord. 1949, eff. 12/17/13)

Section 14-141. REPEALED. (Ord. 1949, eff. 12/17/13)

ARTICLE 7. VESTED PROPERTY RIGHTS

Section 14-142. Purpose.

The purpose of this Article is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended. (Ord. 1624, eff., 12/18/99)

Section 14-143. Definitions.

As used in this Article, unless the context otherwise requires:

1) “*Site specific development plan*” means:

For all developments, the final approval step, irrespective of its title, which occurs prior to building permit application; provided, however, that if the landowner wishes said approval to have the effect of creating vested rights pursuant to Article 68 of Title 24, C.R.S., as amended, the landowner must so request at least twenty (20) days prior to the date said approval is to be considered. Failure to so request renders the approval not a “site specific development plan,” and no vested rights shall be deemed to have been created. The City Council may by agreement with the developer designate an approval other than those described above to serve as the site specific development plan approval for a specific project. (Ord. 1624, eff., 12/18/99)

2) “*Vested property right*” means the right to undertake and complete the development and use of

property under the terms and conditions of a site specific development plan. (Ord. 1624, eff., 12/18/99)

Section 14-144. Notice and hearing.

No site specific development plan shall be approved until after a public hearing, preceded by written notice of such hearing. Such notice may, at the City's option be combined with the notice required by Section 31-23-304, C.R.S., as amended, for zoning regulations, or with any other required notice. At such hearing interested persons shall have an opportunity to be heard. (Ord. 1624, eff., 12/18/99)

Section 14-145. Approval - effective date amendments.

A site specific development plan shall be deemed approved upon the effective date of the City Council approval action relating thereto, as set forth in Section 14-143 above. In the event amendments to a site specific development are proposed and approved, the effective date of such amendments, for purposes of duration of a vested property right, shall be the date of the approval of the original site specific development plan, unless the City Council specifically finds to the contrary and incorporates such finding in its approval of the amendment. (Ord. 1624, eff., 12/18/99)

Section 14-146. Notice of approval.

Each map, plat, or site plan or other document constituting a site specific development plan shall contain the following language:

“Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended.” Failure to include this statement shall invalidate the creation of the vested property right. In addition, a notice describing generally the type and intensity of use approved, the specific parcel or parcels of property affected and stating that a vested property right has been created shall be published once, not more than fourteen (14) days after approval of the site specific development plan, in a newspaper of general circulation within the City.” (Ord. 1624, eff., 12/18/99)

Section 14-147. Payment of costs.

In addition to any and all other fees and charges imposed by this Code, the applicant for approval of a site specific development plan, shall pay, at the time of application, all costs incurred by the City as a result of the site specific development plan review, including publication of notices, public hearing and review costs, which amount shall be set at Three Hundred Dollars (\$300.00), of which Two Hundred Dollars (\$200.00) shall be a nonrefundable administration and review fee. The remaining One Hundred Dollars (\$100.00) shall be applied toward the costs of publication of notices in connection with the application. If the publication costs are less than One Hundred Dollars (\$100.00), the difference shall be refunded to the applicant. If the publication costs exceed One Hundred Dollars (\$100.00), the applicant shall be required to make an additional payment to the City equal to the amount by which publication costs exceed One Hundred Dollars (\$100.00). (Ord. 1624, eff., 12/18/99)

Section 14-148. Other provisions unaffected.

Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this Code pertaining to the development and use of property. (Ord. 1624, eff., 12.18.99)

Section 14-149. Limitations.

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or a judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof no longer effective. (Ord. 1624, eff., 12.18.99)

ARTICLE 8. WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES

Section 14-150. Findings.

(1) The Communications Act of 1934 as amended by the Telecommunications Act of 1996 (“the Act”) grants the Federal Communications Commission (FCC) exclusive jurisdiction over: (Ord. 1675, eff., 10-26-01)

(a) The regulation of the environmental effects of radio frequency (RF) emissions from Telecommunications Facilities; and (Ord. 1675, eff., 10-26-01)

(b) The regulation of radio signal interference among users of the RF spectrum. (Ord. 1675, eff., 10-26-01)

(2) The City’s regulation of Towers and Telecommunication Facilities in the City will not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the Act. (Ord. 1675, eff., 10-26-01)

Section 14-151. Purposes.

The general purpose of this Ordinance is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. Specifically, the purposes of this Ordinance are: (Ord. 1675, eff., 10-26-01)

(1) To regulate the location of Towers and Telecommunications Facilities in the City; (Ord. 1675, eff., 10-26-01)

(2) To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities; (Ord. 1675, eff., 10-26-01)

(3) To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques; (Ord. 1675, eff., 10-26-01)

(4) To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers; (Ord. 1675, eff., 10-26-01)

(5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for new Tower structures to support antenna and Telecommunications Facilities; (Ord. 1675, eff., 10-26-01)

(6) To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and (Ord. 1675, eff., 10-26-01)

(7) To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses. (Ord. 1675, eff., 10-26-01)

Section 14-152. Definitions.

The following words, terms, and phrases, when use in this Section, except where the context clearly indicates a different meaning: (Ord. 1675, eff., 10-26-01)

(1) *Antenna Support Structure* means any building or structure other than a Tower which can be used for location of Telecommunications Facilities. (Ord. 1675, eff., 10-26-01)

(2) *Applicant* means any Person that applies for a Tower development permit. (Ord. 1675, eff., 10-26-01)

(3) *Application* means process by which the Owner of a parcel for land within the City submits a request to develop, construct, build, modify, or erect a Tower upon such parcel of land. Application includes all written documentation, verbal statements, and representation, in whatever form or forum, made by the Applicant of the City concerning such a request. (Ord. 1675, eff., 10-26-01)

(4) *Engineer* means any engineer licensed by the State of Colorado. (Ord. 1675, eff., 10-26-01)

(5) *Modification* means repair or restoration of the Tower to the extent that the cost of such repair or restoration is less than fifty percent (50%) of the cost of reconstructing or rebuilding the entire tower. (Ord. 1675, eff., 10-26-01)

(6) *Owner* means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the City who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land. (Ord. 1675, eff., 10-26-01)

(7) *Person* is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit. (Ord. 1675, eff., 10-26-01)

(8) *Stealth* means any Tower or Telecommunications Facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and Towers designed to look other than like a Tower such a light poles, power poles, and trees. The term Stealth does not

necessarily exclude the use of uncamouflaged lattice, guyed, or monopole Tower designs. (Ord. 1675, eff., 10-26-01)

(9) *Telecommunications Facilities* means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include: (Ord. 1675, eff., 10-26-01)

(a) Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or (Ord. 1675, eff., 10-26-01)

(b) Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category. (Ord. 1675, eff., 10-26-01)

(10) *Tower* means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC. (Ord. 1675, eff., 10-26-01)

Section 14-153. Development of Towers.

(1) A Tower shall be a conditional use in the Industrial Zone District and the Community Commercial Zone District. No person shall build, erect, or construct a Tower within the Industrial Zone District or Community Commercial Zone District unless a development permit shall have been issued by the Planning, Zoning and Variance Commission. Application shall be made to the Planning Director in the manner provided in this Article. (Ord. 1961, Sec. 14-153(1) repealed and reenacted eff., 7/11/14)

(2) No person shall build, erect, or construct a Tower upon any parcel of land within any zone district set forth above unless a development permit shall have been issued by the Planning Director, and the approval of the Planning, Zoning and Variance Commission is obtained. (Ord. 1675, eff., 10-26-01)

(3) Development permits shall be issued by the Planning Director upon approval of an application to develop a Tower by the Planning, Zoning and Variance Commission and payment of a permit fee of \$750.00. Development permits for new or modified monopole Towers shall be effective for the period of construction plus a period of five (5) years after certification pursuant to Section 14-165(1). Development permits for new or modified lattice and guyed Towers shall be effective for the period of construction plus a period of two (2) years after certification pursuant to Section 14-165(1). Subsequent permits shall be issued for the periods of time coinciding with the certification schedule set forth in Section 14-165(1). The fee for any such permit shall be \$500.00. (Ord. 1675, eff., 10-26-01)

(4) Towers shall be permitted to a height of fifty (50) feet in accordance with Section 14-167. (Ord. 1675, eff., 10-26-01)

(5) No new Tower shall be built, constructed, or erected in the City unless the Tower is capable of supporting another Person's operating Telecommunications Facilities comparable in weight, size and surface to the Telecommunications Facilities installed by the Applicant on the Tower within six (6)

months of the completion of the Tower construction. (Ord. 1675, eff., 10-26-01)

(6) An application to develop a Tower shall include: (Ord. 1675, eff., 10-26-01)

(a) The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is to be located, the written consent of the Owner shall be contained in the Application. (Ord. 1675, eff., 10-26-01)

(b) The legal description and address of the parcel of land upon which the Tower is to be located. (Ord. 1675, eff., 10-26-01)

(c) The names, addresses, and telephone numbers of all owners of other Towers or usable Antenna Support Structures within a one-half (½) mile radius of the proposed new Tower site, including City-owned property. (Ord. 1675, eff., 10-26-01)

(d) A description of the design plan proposed by the Applicant. The Applicant must identify its utilization of the most recent technological design, including micro cell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of micro cell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services. (Ord. 1675, eff., 10-26-01)

(e) An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by the City or other Persons located within a one-half (½) mile radius of the proposed Tower site. (Ord. 1675, eff., 10-26-01)

(f) Written technical evidence from an Engineer(s) that the proposed Tower or Telecommunications cannot be installed or collocated on another person's Tower or usable Antenna Support Structures owned by other Persons located within one-half (½) mile radius of the proposed Tower site. (Ord. 1675, eff., 10-26-01)

(g) A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties. (Ord. 1675, eff., 10-26-01)

(h) Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in Section 14-155. (Ord. 1675, eff., 10-26-01)

(i) Written, technical evidence from a qualified Engineer(s) acceptable to the Fire Chief and the Building Inspector that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous material such as LP gas, propane, natural gas, or corrosive or other dangerous chemicals. (Ord. 1675, eff., 10-26-01)

(j) In order to assist City staff and the Planning, Zoning and Variance Commission in evaluating visual impact, the Applicant shall submit color photo simulations showing the proposed site of the Tower with a photo-realistic representation of the proposed Tower as it

would appear viewed from the closest residential properties and from adjacent roadways.
(Ord. 1675, eff., 10-26-01)

(7) The Application to develop a Tower shall be accompanied by payment of an application fee of \$250.00. (Ord. 1675, eff., 10-26-01)

(8) The Planning Director or the Planning, Zoning and Variance Commission may require an Applicant to supplement any information that it considers inadequate or that the Applicant has failed to supply. An Application may be denied on the basis that the Applicant has not satisfactorily provided the information required in this subsection. Applications shall be reviewed by the City in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial. (Ord. 1675, eff., 10-26-01)

Section 14-154. Setbacks.

(1) All Towers up to thirty-five (35) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zone district. Towers in excess of thirty-five (35) feet in height shall be set back one (1) additional foot per such foot of Tower height in excess of thirty-five (35) feet. (Ord. 1675, eff., 10-26-01)

(2) Setback requirements for Towers shall be measured from the base of the Tower or the furthest point of projection of the Tower to the property line of the parcel of land on which it is located. (Ord. 1675, eff., 10-26-01)

(3) Setback requirements may be modified, as provided in Section 14-167 (2)(a) when placement of a Tower in a location which will reduce the visual impact can be accomplished, such as adjacent to trees which may visually hide the Tower. (Ord. 1675, eff., 10-26-01)

Section 14-155. Structural requirements.

All Towers must be designed and certified by an Engineer to be structurally sound and, at a minimum, in conformance with the Uniform Building Code, and any other standards outlined in this Article. All Towers in operation shall be fixed to land. (Ord. 1675, eff., 10-26-01)

Section 14-156. Separation or buffer requirements.

(1) For the purpose of this Section, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower. Tower separation distances from residentially zoned lands shall be measured from the base of a Tower to the closest point of residentially zoned property. The minimum Tower separation distances from residentially zoned land and from other Towers shall be calculated and applied irrespective of City jurisdictional boundaries. (Ord. 1675, eff., 10-26-01)

(2) Towers shall be separated from all residentially zoned lands by a minimum of two hundred (200) feet. (Ord. 1675, eff., 10-26-01)

(3) Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Article. (Ord. 1675, eff., 10-26-01)

(a) Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet. (Ord. 1675, eff., 10-26-01)

(b) Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of one thousand five hundred (1,500) feet. (Ord. 1675, eff., 10-26-01)

(c) Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet. (Ord. 1675, eff., 10-26-01)

Section 14-157. Method of determining Tower height.

Measurement of Tower height for the purpose of determining compliance with the requirements of this Article shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto. Tower height shall be measured from grade. (Ord. 1675, eff., 10-26-01)

Section 14-158. Illumination.

Towers shall not be artificially lighted except as required by the Federal Aviation Association (FAA). Upon commencement of construction of a Tower, in cases where there are residentially uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA. (Ord. 1675, eff., 10-26-01)

Section 14-159. Exterior finish.

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body. (Ord. 1675, eff., 10-26-01)

Section 14-160. Landscaping.

All landscaping on a parcel of land containing Towers, Antenna Support Structures, or Telecommunications Facilities shall be in accordance with the applicable landscaping requirements in the zone district where the Tower, Antenna Support Structure, or Telecommunications Facilities are located. The City may require landscaping in excess of the requirements in the City's Code of Ordinances in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing. (Ord. 1675, eff., 10-26-01)

Section 14-161. Access.

A parcel of land upon which a Tower is located must provide access to at least one (1) paved

vehicular parking space on site. (Ord. 1675, eff., 10-26-01)

Section 14-162. Stealth Design.

All towers are encouraged to use stealth design. Stealth design will be required when determined appropriate by the Planning, Zoning and Variance Commission. (Ord. 1675, eff., 10-26-01)

Section 14-163 Telecommunications Facilities on Antenna Support Structures.

Any Telecommunications Facilities which are not attached to a Tower may be permitted as a conditional use of any Antenna Support Structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications Facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the Planning Director, establish the following at the time plans are submitted for a building permit: (Ord. 1675, eff., 10-26-01)

(1) That the height from grade of the Telecommunications Facilities shall not exceed the height from grade of the Antenna Support Structure by more than (20) feet; (Ord. 1675, eff., 10-26-01)

(2) That any Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, are set back one (1) foot from the edge of the primary roof for each one (1) foot in height above the primary roof of the Telecommunications Facilities. This setback requirement shall not apply to Telecommunications Facilities and their appurtenances, located above the primary roof of an Antenna Support Structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the City. Setback requirements shall not apply to Stealth antennas which are mounted to the exterior of Antenna Support Structures below the primary roof, but which do not protrude more than eighteen (18) inches from the side of such an Antenna Support Structure. (Ord. 1675, eff., 10-26-01)

Section 14-164. Modifications of Towers.

(1) A Tower existing prior to the effective date of this Ordinance, which was in compliance with the City's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified without complying with any of the additional requirements of this Article except Section 14-156, 14-165 and 14-166, provided: (Ord. 1675, eff., 10-26-01)

(a) The Tower is being modified for the sole purpose of accommodating, within six (6) months of the completion of the modification, additional Telecommunications Facilities comparable in weight, size, and surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower. (Ord. 1675, eff., 10-26-01)

(b) An application for a development permit is made to the Planning, Zoning and Variance Commission which shall have the authority to issue a development permit. The grant of a development permit pursuant to this Section allowing modification of an existing nonconforming Tower shall not be considered a determination that the modified Tower is conforming. (Ord. 1675, eff., 10-26-01)

(2) Except as provided in this Article, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted which structure or use is in violation of the Code prior to enactment of this Ordinance. (Ord. 1675, eff., 10-26-01)

Section 14-165. Certifications and inspections.

(1) All Towers shall be certified by an Engineer to be structurally sound and in conformance with the requirements of the Uniform Building Code and all other construction standards set forth in the City's Code of Ordinances and federal and state law. For new monopole Towers, such certification shall be submitted with an Application pursuant to Section 14-153 and every five (5) years thereafter. For existing monopole Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For new lattice or guyed Towers, such certification shall be submitted with an application pursuant to Section 14-153 and every two (2) years thereafter. For existing lattice or guyed Towers, certification shall be submitted within sixty (60) day of the effective date of this Ordinance and then every two (2) years thereafter. The Tower owner may be required by the City to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the Tower is jeopardized. (Ord. 1675, eff., 10-26-01)

(2) The City or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with the Uniform Building Code and all other construction standards provided by the City Code and federal and state law. (Ord. 1675, eff., 10-26-01)

(3) The City reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the City shall be borne by the Tower owner. (Ord. 1675, eff., 10-26-01)

Section 14-166. Maintenance.

(1) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods, materials, and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. (Ord. 1675, eff., 10-26-01)

(2) Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that will not interfere with the use of other property. (Ord. 1675, eff., 10-26-01)

(3) All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order and repair so that the same shall not menace or endanger the life or property of any Person. (Ord. 1675, eff., 10-26-01)

(4) All maintenance or construction of Towers, Telecommunications Facilities, or Antenna Support

Structures shall be performed by licensed maintenance and construction personnel. (Ord. 1675, eff., 10-26-01)

(5) All Towers shall maintain compliance with current emission standards of the FCC. (Ord. 1675, eff., 10-26-01)

(6) In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued, at least thirty (30) days prior to the date of discontinuance. (Ord. 1675, eff., 10-26-01)

Section 14-167. Criteria for Site Plan Development Modifications.

(1) Notwithstanding the Tower requirements provided in this Article, a modification to the requirements may be approved by Planning, Zoning and Variance Commission as a conditional use in accordance with the following: (Ord. 1675, eff., 10-26-01)

(a) In addition to the requirement for a Tower Application, the Application for modification shall include the following: (Ord. 1675, eff., 10-26-01)

(I) A description of how the plan addresses any adverse impacts that might occur as a result of approving the modification. (Ord. 1675, eff., 10-26-01)

(II) A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification. (Ord. 1675, eff., 10-26-01)

(III) A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationships to surrounding rights-of-way and properties. (Ord. 1675, eff., 10-26-01)

(IV) For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate any agreement for collocation, and the result of such attempts. (Ord. 1675, eff., 10-26-01)

(V) The Planning, Zoning and Variance Commission may require the Application to be reviewed by an independent Engineer at the Applicant's expense to determine whether the antenna study supports the basis for the modification requested. (Ord. 1675, eff., 10-26-01)

(b) The Planning, Zoning and Variance Commission shall consider the Application for modification based on the following criteria: (Ord. 1675, eff., 10-26-01)

(I) That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties. (Ord. 1675, eff., 10-26-01)

(II) Off-site or on-site conditions exist which mitigate the adverse impacts, if any,

created by the modification. (Ord. 1675, eff., 10-26-01)

(III) In addition, the Commission may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts in connection with the approval of the modification. (Ord. 1675, eff., 10-26-01)

(2) In addition to the requirements of subparagraph (1) of this Section, in the following cases, the Applicant must also demonstrate, with written evidence, the following: (Ord. 1675, eff., 10-26-01)

(a) In the case of a requested modification to the setback requirement contained in Section 14-154, that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located, and no reasonable alternative exists. (Ord. 1675, eff., 10-26-01)

(b) In the case of a request for modification to the separation and buffer requirements from other Towers of Section 14-156, that the proposed site is zoned "Industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands provided for in Section 14-156. (Ord. 1675, eff., 10-26-01)

(c) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of Section 14-156, if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping, stealth towers, and other buffers to screen the Tower from being visible to residentially zoned property. (Ord. 1675, eff., 10-26-01)

(d) In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to: (I) facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or (II) to meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented within written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved. (Ord. 1675, eff., 10-26-01)

Section 14-168. Abandonment.

(1) If any Tower shall cease to be used for a period of 365 consecutive days, the Planning Director shall notify the Owner, with a copy of the Applicant, that the site will be subject to a determination by the City Council that such site has been abandoned. The Owner shall have thirty (30) days from the receipt of said notice to show, by a preponderance of the evidence, that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the City Council shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-

five (75) days, dismantle and remove the Tower. (Ord. 1675, eff., 10-26-01)

(2) To secure the obligation set forth in this Section, the Applicant and/or Owner shall post bond in an amount determined by City Council based on the estimated cost of removal of the Tower. (Ord. 1675, eff., 10-26-01)

Section 14-169. Severability.

That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby, but shall remain in full force and effect. (Ord. 1675, eff., 10-26-01)

Section 14-170. Conflicts.

That all provision of the Code of Ordinances in conflict herewith are hereby repealed. (Ord. 1675, eff., 10-26-01)

ARTICLE 9. SEXUALLY ORIENTED BUSINESSES.

Section 14-171. Purpose and Intent.

The purpose and intent of this article is to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious location and design of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this article are not intended to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is not the intent of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or the Colorado Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material. (Ord. 1738, eff., 10-21-03)

Section 14-172. Definitions.

Words and phrases used in this article shall have the following meanings ascribed to them: (Ord. 1738, eff., 10-21-03)

- (1) **ADULT ARCADE** - means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting “specified sexual activities” or “specified anatomical areas.” (Ord. 1738, eff., 10-21-03)
- (2) **ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO** - means a commercial establishment that, as one of its principal business purposes, offers for sale or rental

for any form of consideration any one or more of the following: (Ord. 1738, eff., 10-21-03)

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, digital video discs, CD-ROMs or other digital video media, video cassettes or video reproductions, slides, or other visual representatives however produced that depict or describe “specified sexual activities” or “specified anatomical areas”; or (Ord. 1738, eff., 10-21-03)
 - (b) Instruments, devices, or paraphernalia, which are designed for use in connection with “specified sexual activities.” (Ord. 1738, eff., 10-21-03)
- (3) ADULT CABARET - means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features: (Ord. 1738, eff., 10-21-03)
- (a) persons who appear nude or in a state of nudity or semi-nudity; or (Ord. 1738, eff., 10-21-03)
 - (b) live performances that are characterized by the exposure of “specified anatomical areas” or by the exhibition of “specified sexual activities.” (Ord. 1738, eff., 10-21-03)
- (4) ADULT MOTEL - means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, digital video discs, CD-ROMS or other digital video media, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas,” and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production. (Ord. 1738, eff., 10-21-03)
- (5) ADULT MOTION PICTURE THEATER - means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, or films, motion pictures, digital video discs, CD-ROMs or other digital video media, video cassettes, slides, or similar photographic reproductions, or more than one hundred (100) days per year, that have an “X” rating or that have an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.” (Ord. 1738, eff., 10-21-03)
- (6) ADULT THEATER - means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of “specified anatomical areas” or by “specified sexual activities.” (Ord. 1738, eff., 10-21-03)
- (7) COMMERCIAL ESTABLISHMENT - may have other principal business purposes that do not involve the depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe “specified sexual activities” or “specified anatomical areas.” The term “commercial establishment” includes clubs, fraternal organizations, social organizations, civic organizations, or other similar organizations with paid

- memberships. (Ord. 1738, eff., 10-21-03)
- (8) EMPLOYEE - means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business. (Ord. 1738, eff., 10-21-03)
- (9) ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS - means and includes any of the following: (Ord. 1738, eff., 10-21-03)
- (a) the opening or commencement of any such business as a new business; (Ord. 1738, eff., 10-21-03)
 - (b) the conversion of any existing business into a sexually oriented business; (Ord. 1738, eff., 10-21-03)
 - (c) the addition of a different sexually oriented business to any other existing sexually oriented business; or (Ord. 1738, eff., 10-21-03)
 - (d) the relocation of a sexually oriented business. (Ord. 1738, eff., 10-21-03)
- (10) FOYER - means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building. (Ord. 1738, eff., 10-21-03)
- (11) LICENSEE - means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a sexually oriented business license. (Ord. 1738, eff., 10-21-03)
- (12) LICENSING OFFICER - means the City Clerk or his or her designee. (Ord. 1738, eff., 10-21-03)
- (13) MANAGER - means an operator, other than a licensee, who is employed by a sexually oriented business to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business. (Ord. 1738, eff., 10-21-03)
- (14) NUDITY OR STATE OF NUDITY - means: (Ord. 1738, eff., 10-21-03)
- (a) the appearance of human bare buttocks, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (Ord. 1738, eff., 10-21-03)
 - (b) a state of dress which fails opaquely and fully to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast. (Ord. 1738, eff., 10-21-03)
- (15) NUDE MODEL STUDIO - means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided for money or any form of consideration to

be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons. (Ord. 1738, eff., 10-21-03)

- (16) OPERATOR - means and includes the owner, license holder, custodian, manager, operator, or person in charge of any licensed premises. (Ord. 1738, eff., 10-21-03)
- (17) PEEP BOOTH - means a room, semi-enclosure or other similar area located within a licensed premises wherein a person may view films, motion pictures, digital video discs, CD-ROMs or other digital video media, video cassettes, slides, or similar photographic reproductions, which depict or describe “specified anatomical areas” or “specified sexual activities.” (Ord. 1738, eff., 10-21-03)
- (18) PERSON - means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity. (Ord. 1738, eff., 10-21-03)
- (19) PREMISES OR LICENSED PREMISES - means any premises that requires a sexually oriented business license and that is classified as a sexually oriented business, including parking lots and sidewalks immediately adjacent to the structure containing the sexually oriented business. (Ord. 1738, eff., 10-21-03)
- (20) PRINCIPAL BUSINESS PURPOSE - means as to any establishment, having as a substantial or significant portion of its stock in trade the items listed in subparagraphs (a) and (b) of the definition of *adult bookstore, adult novelty store, or adult video store* above and having on the premises at least thirty percent of the establishment’s display space occupied by the display of the items described therein. (Ord. 1738, eff., 10-21-03)
- (21) PRINCIPAL OWNER - means any person owning, directly or beneficially:(Ord. 1738, eff., 10-21-03)
 - (a) any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or (Ord. 1738, eff., 10-21-03)
 - (b) in the case of any other legal entity, five (5) percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity. (Ord. 1738, eff., 10-21-03)
- (22) PUBLIC PARK - an area of land owned by a governmental entity and intended to be used for recreational purposes, but not including any such land that contains no improvements and is intended only for open space purposes, and not including any such land that is intended for use only for pathway purposes. (Ord. 1738, eff., 10-21-03)
- (23) SEXUALLY ORIENTED BUSINESS - means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy. (Ord. 1738, eff., 10-21-03)

- (24) SEMINUDE OR SEMINUDITY - means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing. (Ord. 1738, eff., 10-21-03)
- (25) SPECIFIED ANATOMICAL AREAS - as used herein means and includes any of the following: (Ord. 1738, eff., 10-21-03)
- (a) human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or (Ord. 1738, eff., 10-21-03)
 - (b) human male genitals in a discernibly turgid state even if completely and opaquely covered. (Ord. 1738, eff., 10-21-03)
- (26) SPECIFIED CRIMINAL ACTS - means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity, prostitution, or pandering. (Ord. 1738, eff., 10-21-03)
- (27) SPECIFIED SEXUAL ACTIVITIES - means and includes any of the following: (Ord. 1738, eff., 10-21-03)
- (a) the fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; (Ord. 1738, eff., 10-21-03)
 - (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (Ord. 1738, eff., 10-21-03)
 - (c) masturbation, actual or simulated; (Ord. 1738, eff., 10-21-03)
 - (d) human genitals in a state of sexual stimulation, arousal, or tumescence; or (Ord. 1738, eff., 10-21-03)
 - (e) excretory functions as part of or in connection with any of the activities set forth in subsections A through D of this definition. (Ord. 1738, eff., 10-21-03)
- (28) TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS - means and includes any of the following: (Ord. 1738, eff., 10-21-03)
- (a) the sale, lease, or sublease of the business; (Ord. 1738, eff., 10-21-03)
 - (b) the transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or (Ord. 1738, eff., 10-21-03)
 - (c) the establishment of a trust, management arrangement, gift or other similar legal device that transfer ownership or control of the business, including a transfer by bequest or operation of law. (Ord. 1738, eff., 10-21-03)

Section 14-173. Lighting regulations.

(1) All off-street parking areas and premises entries of adult businesses shall be illuminated from dusk to closing hours of operation with a light system which provides an average minimum maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the adult business to help ensure the personal safety of patrons and employees and to reduce the incidence of vandalism and other criminal conduct. (Ord. 1738, eff., 10-21-03)

(2) The interior portion of the premises of a sexually oriented business to which patrons are permitted access shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place (including peep booths) at an illumination of not less than five (5.0) foot candles as measured at the floor level. (Ord. 1738, eff., 10-21-03)

(3) Adult motion picture theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every interior place to which patrons are permitted access to provide an illumination of not less than one (1) footcandle of light as measured at the floor level. (Ord. 1738, eff., 10-21-03)

(4) It shall be the duty of the licensee and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises. (Ord. 1738, eff., 10-21-03)

Section 14-174. Location of sexually oriented businesses and design of same.

(1) It shall be unlawful to operate or cause to be operated a sexually oriented business outside of I-Industrial District. (Ord. 1738, eff., 10-21-03)

It shall be unlawful to operate or cause to be operated a sexually oriented business within five hundred (500) feet of: (Ord. 1738, eff., 10-21-03)

1. any church; (Ord. 1738, eff., 10-21-03)
2. any school meeting all requirements of the compulsory education laws of the State of Colorado; (Ord. 1738, eff., 10-21-03)
3. an existing dwelling; (Ord. 1738, eff., 10-21-03)
4. a public park; or (Ord. 1738, eff., 10-21-03)
5. a licensed childcare facility. (Ord. 1738, eff., 10-21-03)

(2) It shall be unlawful to operate or cause to be operated a sexually oriented business on any property that has frontage on a street on which a school is located. (Ord. 1738, eff., 10-21-03)

(3) It shall be unlawful to cause or permit the operation, establishment, or maintenance of a sexually oriented business within one hundred (100) feet of any other sexually oriented business.

(Ord. 1738, eff., 10-21-03)

(4) All exterior windows in a sexually oriented business shall be opaque to such an extent that interior objects viewed from outside shall be so obscure as to be unidentifiable. Exterior windows in sexually oriented businesses shall not be used for any display or sign except for a sign that complies with the requirements of Sections 14-89 through 14-104 of this Code. (Ord. 1738, eff., 10-21-03)

(5) All doors for ingress and egress to a sexually oriented business, except emergency exits used only for emergency purposes, shall be located on the front of the sexually oriented business. For purposes of this subsection, the front of a sexually oriented business shall be deemed to be that facade of the building that faces the front lot line of the lot or parcel on which the business is located. Every sexually oriented business shall have a foyer at every point of ingress or egress, except for emergency exits. In the case of a sexually oriented business having more than one front lot line, the sexually oriented business shall be oriented so that the front of the business faces away from the nearest of any of the land uses listed in subsection (1) above. (Ord. 1738, eff., 10-21-03)

Section 14-175. Measurement of distance.

(1) The distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business, or, in the case of a sexually oriented business operating within a condominium estate or leasehold estate, from the closest airspace boundary of such condominium estate or from the closest wall of such leasehold estate. (Ord. 1738, eff., 10-21-03)

(2) The distance between any sexually oriented business and any church, school, dwelling, public park or childcare facility shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior structural wall of the sexually oriented business to the nearest property line of the premises of a church, school, dwelling, public park or childcare facility. If the premises where the sexually oriented business is conducted is comprised of a condominium estate or leasehold estate, such distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest airspace boundary of the condominium estate or the nearest wall of the leasehold estate used as part of the premises where the sexually oriented business is conducted to the nearest property line of the premises of a church, school, dwelling, public park or childcare facility. (Ord. 1738, eff., 10-21-03)

Section 14-176. Other locational regulations.

(1) Any sexually oriented business lawfully operating on the effective date of this ordinance that is in violation of Section 14-174 will be permitted to continue for a period of six (6) months from the effective date hereof. (Ord. 1738, eff., 10-21-03)

(2) Upon application made by the owner of a sexually oriented business within four months of the effective date of this ordinance, and notwithstanding the provisions of subsection (1), the City Manager may, after a hearing to be held within 30 days of the application, grant an extension of time during which a sexually oriented business in violation of Section 14-174 will be permitted to continue upon a showing, by competent evidence, that the owner of the business has not had a reasonable time to recover the initial financial investment in the business. At the hearing, the City

Manager shall hear such statements and consider such evidence as the City Attorney, the owner, occupant, lessee, or other party in interest, or any other witness shall offer that is relevant to the issue of whether the owner of the business has had a reasonable time to recover the initial financial investment in the business. The City Manager shall make findings of fact, from the statements and evidence offered, as to whether the owner of the business has had a reasonable time to recover the initial financial investment in the business. If the City Manager grants an extension of time during which a sexually oriented business in violation of Section 14-174 will be permitted to continue, he or she shall issue an order to that effect, which states exactly the period of the extension. A copy of the order shall be mailed to or served on the owner within 30 days of the hearing. No extension of time shall be for a period greater than that reasonably necessary for the owner of the business to recover his or her initial financial investment in the business. A sexually oriented business in violation of Section 14-174 may continue during such extended period unless the business is sooner terminated for any reason, or voluntarily discontinued for a period of thirty (30) days or more. Such business shall not be enlarged, extended, or altered except that the business may be brought into compliance with this Article. In performing his duties pursuant to this section, the City Manager may retain independent counsel to advise him with regard to any matter. (Ord. 1738, eff., 10-21-03)

(3) A sexually oriented business which at the time it received its sexually oriented business license was in compliance with the location requirements of Section 14-174 does not violate the section if when the sexually oriented business applies to renew its valid sexually oriented business license a church, school, dwelling, public park or childcare facility is now located within five hundred (500) feet of the sexually oriented business. This provision applies only to the renewal of a valid sexually oriented business license and does not apply to an application for a sexually oriented business

license that is submitted as a result of the previous sexually oriented business license at the same location expiring or being revoked. (Ord. 1738, eff., 10-21-03)

Section 14-177. Stage required in adult cabaret and adult theater.

Any adult cabaret or adult theater shall have one or more separate areas designated as a stage in the diagram submitted as part of the application for the sexually oriented business license. Entertainers shall perform only upon a stage. The stage shall be fixed and immovable and located inside the building in which the adult use operates. No seating for the audience shall be permitted within three (3) feet of the edge of the stage. No members of the audience shall be permitted upon the stage or within three (3) feet of the edge of the stage. (Ord. 1738, eff., 10-21-03)

Section 14-178. Conduct in sexually oriented business.

(1) No licensee, manager or employee mingling with the patrons of a sexually oriented business, or serving food or drinks, shall be in a state of nudity. It is a defense to any prosecution for a violation of this subsection that an employee of a sexually oriented business exposed any specified anatomical area only during the employee's *bona fide* use of a restroom or during the employee's *bona fide* use of a dressing room that is accessible only to employees. (Ord. 1738, eff., 10-21-03)

(2) No licensee, manager or employee shall encourage or knowingly permit any person upon the premises to touch, caress, or fondle the genitals, pubic region, buttocks, anus or breasts of any person. (Ord. 1738, eff., 10-21-03)

Section 14-179. Employee tips.

(1) It shall be unlawful for any employee of a sexually oriented business to receive tips from patrons except as set forth in subsection 3 of this section. (Ord. 1738, eff., 10-21-03)

(2) A licensee that desires to provide for tips from its patrons shall establish one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the sexually oriented business into the tip box. (Ord. 1738, eff., 10-21-03)

(3) A sexually oriented business that provides tip boxes for its patrons as provided in this section shall post one or more signs to be conspicuously visible to the patrons on the premises, in bold letters at least one inch high to read as follows: (Ord. 1738, eff., 10-21-03)

“All tips are to be placed in the tip box and not handed directly to employees. Any physical contact between a patron and employees is strictly prohibited.” (Ord. 1738, eff., 10-21-03)

Section 14-180. Unlawful acts.

It shall be unlawful for a licensee, manager or employee to violate any of the requirements of this Article, or knowingly to permit any patron to violate the requirements of this article. (Ord. 1738, eff., 10-21-03)

Section 14-181. Exemptions.

The provisions of this article regulating nude model studios do not apply to:(Ord. 1738, eff., 10-21-03)

(1) A proprietary school, licensed by the State of Colorado; a college, junior college, or university supported entirely or partly by taxation; (Ord. 1738, eff., 10-21-03)

(2) A private college or university that maintains and operates education programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or (Ord. 1738, eff., 10-21-03)

(3) A business located in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one nude model is on the premises at any one time. (Ord. 1738, eff., 10-21-03)

Section 14-182. Regulation of peep booths.

It shall be unlawful for a person who operates or causes to be operated a sexually oriented business with peep booths to violate the following requirement of this section: (Ord. 1738, eff., 10-21-03)

(1) At least one employee must be on duty and situated at each manager’s station at all times that any patron is present inside the premises. The interior of the premises shall be configured in such a manner that such employee shall be clearly visible from every area of the premises to which any

patron is permitted access for any purpose, excluding restrooms. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the employee in at least one of the manager's stations from each area of the premises to which any patron is permitted access for any purpose. The view required in this subsection must be by direct line of sight from the manager's station.

The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Code. (Ord. 1738, eff., 10-21-03)

(2) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video display equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. The view area shall remain unobstructed by any opaque coverings, two-way mirrors, doors, walls, merchandise, display racks, or other materials at all times, and no patron shall be permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Code. (Ord. 1738, eff., 10-21-03)

(3) No peep booth may be occupied by more than one person at any one time. (Ord. 1738, eff., 10-21-03)

(4) No door, two-way mirror, screen, opaque covering or other covering shall be placed or allowed to remain on any peep booth, and no holes or openings shall be placed or allowed to remain in the wall between any two (2) adjacent peep booths. (Ord. 1738, eff., 10-21-03)

Section 14-183. Hours of operation.

It shall be unlawful for a sexually oriented business to be open for business or for the licensee, manager or any employee of a licensee to allow patrons upon the licensed premises during the following time periods: (Ord. 1738, eff., 10-21-03)

(1) On any Tuesday through Saturday from 2:00 a.m. until 7:00 a.m.; (Ord. 1738, eff., 10-21-03)

(2) On any Monday, other than a Monday that falls on January 1, from 12:00 a.m. until 8:00 a.m.; (Ord. 1738, eff., 10-21-03)

(3) On any Sunday from 2:00 a.m. until 8:00 a.m. (Ord. 1738, eff., 10-21-03)

(4) On any Monday which falls on January 1, from 2:00 a.m. until 7:00 a.m. (Ord. 1738, eff., 10-21-03)

Section 14-184. Minimum age.

(1) Except for such employees as may be permitted by law, it shall be unlawful for any person under the age of twenty-one (21) years to be upon the premises of a sexually oriented business that operates pursuant to a type A sexually oriented business license. It shall be unlawful for any person under the age of eighteen (18) years to be upon the premise of a sexually oriented business. (Ord. 1738, eff., 10-21-03)

(2) It shall be unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of twenty-one (21) years, except for such employees as may be permitted by law, to be upon the premises of a sexually oriented business operated pursuant to a type A sexually oriented business license. It shall be unlawful for the licensee, manager or any employee of the licensee to allow anyone under the age of eighteen (18) years upon the premises of a sexually oriented business. (Ord. 1738, eff., 10-21-03)

Section 14-185. Signs for sexually oriented businesses.

In addition to complying with all other sign regulations of this Code, a sexually oriented business shall display a sign, clearly visible and legible at the entrance of the business, that gives notice of the adult nature of the sexually oriented business and of the fact that the premises is off limits to minors or those under the age of twenty-one (21) years, as the case may be. No signs for a sexually oriented business shall contain flashing lights, words, lettering, photographs, silhouettes, drawings or pictorial representations that emphasize specified anatomical areas or specified sexual activities. (Ord. 1738, eff., 10-21-03)

Section 14-186. Right of entry.

The application for an adult-oriented business license shall constitute the irrevocable consent of the licensee and the licensee's agents and employees to permit the city police department or any other agent of the city to conduct routine inspections of any licensed adult business during the hours the establishment is conducting business. Such inspections shall be conducted in a reasonable manner, and only as frequently as may be reasonably necessary. (Ord. 1738, eff., 10-21-03)

Section 14-187. Penalty provision.

Any person, firm or corporation, whether as owner, licensee, lessee, sublessee, occupant, or employee, violating any of the provisions of this article shall be deemed guilty of a Code violation, and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed, continued, or permitted; and, upon conviction of any such violation, such person, firm or corporation shall be punished by a fine, imprisonment, or both such fine and imprisonment, as set forth in Section 1-8 of this Code. (Ord. 1738, eff., 10-21-03)

ARTICLE 10. SIDEWALK CAFÉ REQUIREMENTS.

Section 14-188. - 14-200. REPEALED (Ord. 2028, eff. 5/12/17)

ARTICLE 11. RESIDENTIAL CULTIVATION OF MARIJUANA

Section 14-200.1. Definitions.

All terms concerning the medical use of marijuana shall take the meaning they are given in Article XVIII, Section 14 (1)(a)-(j) of the Colorado Constitution.

“Primary residence” shall refer to the place that a person, by custom and practice, makes their principle domicile; the address to which a person intends to return following any temporary absence or vacation. Residence is evidenced by actual daily physical presence, occupancy, and use for such domestic purposes as preparing and partaking of meals, slumber, and repose, and use of the residential address for purposes such as receiving mail, vehicular and voter registration, or credit, water, or utility billing. This definition shall include residences that are let, leased, or rented from one property owner to another person or persons.

Section 14-200.2. Limits on Medical and Recreational Use in Residences.

- 1) In addition to full compliance with the regulations of marijuana use found in the Colorado Constitution, applicable State law, and all other Ordinances of the City of Trinidad, all persons possessing marijuana plants in their residences in the City of Trinidad shall be bound by the following:
 - a. There shall not be, on any property other than those licensed by the City of Trinidad for commercial possession of marijuana, any more than twelve (12) marijuana plants, no more than six (6) of which may be mature, flowering, and producing a usable form of marijuana.
 - i. A person shall possess marijuana plants only in their primary residence.
 1. In no case shall a person’s allotment of marijuana plants be held on two (2) properties at once. In the case that a person has a debilitating medical condition which shall have been declared by the State of Colorado to allow them the medical use of marijuana, that person’s allotment of marijuana plants may be possessed in the primary residence of their primary care-giver.
 - ii. If a person resides on a property that they do not own, they must first obtain the written consent of the owner before possessing marijuana plants therein.
 - iii. A person may possess marijuana plants in accessory structures of their residence, but the restrictions of this ordinance still apply.
 - b. The lawful possession and cultivation of marijuana shall be contingent upon the following:
 - i. There shall be no visual, odorous, or auditory indication of said possession or cultivation, perceptible from any other residence, property, or right of way. This shall also prohibit signs to that effect;
 - ii. There shall not be undue vehicular or foot traffic, including excess parking, at the residence;
 - iii. There shall be no criminal activity, on or in the vicinity of the property, in any way related to the possession of marijuana plants thereon;
 - c. The cultivated marijuana and marijuana plants shall not be accessible to any person under the age of twenty-one (21); it must be secured and under lock and key when any person under the age of twenty-one (21) is on the premises of the property.
 - i. In the case that the primary care-giver is in possession of marijuana plants for more than one patient, each patient’s respective allotment must be demarked.

- d. No processing chemical or pressurized gas shall be used on the property to enhance or extract the tetrahydrocannabinol (THC) from marijuana.
 - e. The Police Chief, or his designee, may inspect the residence of a person cultivating marijuana upon their permission (and the permission of the property owner, if they are not the same person), or upon receiving an inspection warrant duly issued by the Municipal Court Judge. Barring an emergency, any such inspection shall take place during reasonable hours and shall be for the purpose of verifying compliance with this ordinance.
 - f. All cultivation of marijuana shall comply fully with applicable sections of Building, Fire Safety, and Health Codes, and with the requirements of officials enforcing such Codes.
 - g. If the possession or cultivation of marijuana causes the need for the City of Trinidad to provide services above and beyond the standard requirements for the residence, or if it causes damage or wear which the City of Trinidad must repair, any such expenditures shall be the sole liability of the property owner.
 - h. It shall be unlawful and a misdemeanor offense, punishable according to the penalties in section 1-8 of this code, for any person to violate any portion of this code, and a person shall be guilty of a separate offense for each day in which any violation of this Ordinance is committed or permitted.
 - i. Violation of part (b)(i) and (b)(ii) of this section shall be established upon the official complaint of no less than three (3) residents of the neighborhood, given that said persons live within a two (2) block radius of the person against whom they are complaining, and that no two complainants live at the same residence. Violation may also be determined by the Police Chief, or his designee.
- 2) Any ordinance or ordinances pertaining to public nuisances, either present or adopted later into the Code of the City of Trinidad, shall apply in a supplementary fashion to the restrictions in this ordinance on the medical and personal use of marijuana. (Ord. 2030, Article 11 amended, eff. 6-16-17)

ARTICLE 12. MEDICAL MARIJUANA AND RETAIL MARIJUANA.

(Ord. 2004, Article 12 enacted, eff. 4-29-16)

Section 14-201. Purposes, intent and other laws.

(a) The purposes of this Article are to implement the provisions of Article 43.3 of Title 12, C.R.S., known as the Colorado Medical Marijuana Code; to regulate the sale and distribution of marijuana in the interests of patients who qualify to obtain, possess and use marijuana for medical purposes under Article XVIII, Section 14 of the Colorado Constitution; and to implement the provisions of Article 43.4 of Title 12, C.R.S., the Colorado Retail Marijuana Code, which authorizes the licensing and regulation of retail marijuana businesses and affords the City the option to determine whether or not to allow retail marijuana businesses within its jurisdiction and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law. The intent of this Article is to establish a nondiscriminatory mechanism by which the City can control, through appropriate regulation, the location and operation of medical marijuana establishments and retail marijuana establishments within the City. Nothing in this Article is intended to promote or condone the sale, distribution, possession or use of marijuana in violation of any applicable law. Compliance with the requirements of this Article shall not provide a defense to criminal prosecution under any applicable law.

(b) If the state adopts any stricter regulation governing the sale or distribution of medical or retail marijuana or their respective derivative products than those set forth in this Article, the stricter regulation shall control the establishment or operation of any medical or retail marijuana establishment in the City. A licensee may be required to demonstrate, upon demand by the local licensing authority, or by law enforcement officers, that the source and quantity of any marijuana found upon the licensed premises are in full compliance with applicable state regulation. If the state prohibits the sale or other distribution of medical or retail marijuana, any license issued under this Article concerning the type of marijuana subject to such prohibition shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress by the licensee. The issuance of any license pursuant to this Article shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution or use of medical marijuana or retail marijuana.

Section 14-202. Definitions.

(a) The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

Applicant shall mean any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, *applicant* shall include all persons who are the members and managers of such entity.

Colorado Medical Marijuana Code shall mean Title 12, Article 43.3 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

Colorado Retail Marijuana Code shall mean Title 12, Article 43.4 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

Consumer means a person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use by a person twenty-one (21) years of age or older, but not for resale to others.

Cultivation or *cultivate* shall mean the process by which a person grows a marijuana plant or plants.

Industrial hemp means the plant of the genus *cannabis* and any part of such plant, whether growing or not, with a Delta-9 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

Good cause (for the purpose of refusing or denying a license or license renewal under this Article) means: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of this Article, of the Colorado Retail Marijuana Code or Colorado Medical Marijuana Code, as applicable, or of any rule and regulation promulgated under either Code, as applicable, or under this Article; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license, whether state or local, at the time the license was issued, or that were placed on its license, whether state or local, in prior disciplinary proceedings or that arose in the context of potential disciplinary proceedings; or (3) the licensee's marijuana establishment has been found to have been operated in a manner that adversely affects the public

health, welfare or safety of the immediate neighborhood in which the marijuana establishment is located. Evidence to support such a finding can include: (i) a continuing pattern of offenses against the public peace; (ii) a continuing pattern of drug-related criminal conduct within the premises of the marijuana establishment or in the immediate area surrounding the marijuana establishment; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the marijuana establishment.

License shall mean a document issued by the City officially authorizing an applicant to operate a marijuana establishment pursuant to this Article or, if required by the context, means a document issued by the state licensing authority pursuant to the Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code, as applicable.

Licensee shall mean the person or entity to whom a license has been issued pursuant to this Article.

Licensed premises means the premises specified in an application for a license under this Article, which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, test, manufacture, distribute, or sell retail or medical marijuana or retail or medical marijuana products in accordance with state and local law.

Marijuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Marijuana accessories means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

Marijuana establishment means a medical marijuana establishment or a retail marijuana establishment.

Medical marijuana establishment means a medical marijuana center, an optional premises cultivation operation or a medical marijuana-infused products manufacturer, as defined in the Colorado Medical Marijuana Code.

Medical marijuana-infused product means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed medical marijuana center or a medical marijuana-infused product manufacturer, shall not be considered a food or drug for the purposes of the "Colorado Food and Drug Act", Part 4 of Article 5 of Title 25, C.R.S.

Retail marijuana establishment means a retail marijuana store, a retail marijuana cultivation facility, a retail marijuana products manufacturer or a retail marijuana testing facility, as defined in the Colorado Retail Marijuana Code.

Retail marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, including without limitation to edible products, ointments and tinctures.

School shall mean a public or private preschool or a public or private elementary, middle, junior high or high school.

State shall mean the state of Colorado.

State licensing authority means the authority created by the state of Colorado for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of medical marijuana and retail marijuana in the State of Colorado pursuant to C.R.S. § 12-43.3-201.

(b) In addition to the definitions contained in Subsection (a) of this Section, other terms used in this Article shall have the meaning ascribed to them in Article XVIII, Section 14, of the Colorado Constitution; Article XVIII, Section 16 of the Colorado Constitution; the Colorado Medical Marijuana Code or in the Colorado Retail Marijuana Code, and such definitions are hereby incorporated into this Article by this reference.

Section 14-203. Licensing authority created.

There shall be and is hereby created a Marijuana Licensing Authority hereafter referred to in this Article as the “Authority.”

Section 14-204. Composition of the Authority.

The Authority shall be the City Council.

Section 14-205. Functions of the Authority.

(a) Subject to all other requirements of this Article and excepting any delegation of duty and authority, the Authority shall have the duty and authority pursuant to this Article to grant or deny licenses for marijuana establishments and to process applications for new licenses, renewals, transfers of ownership, modifications of premises and changes of location of an existing licensed business.

(b) The Authority shall have the power to: (i) promulgate rules and regulations concerning the procedures for hearings before the Authority; (ii) conduct hearings personally or to appoint and designate a Hearing Officer to conduct any hearing; (iii) require any applicant or licensee to furnish any relevant information required by the Authority; and (iv) administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing that the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by a district court of the state.

Section 14-206. License required; term of license; renewal application; taxes.

(a) It shall be unlawful for any person to operate any marijuana establishment within the City that has not been licensed by the state licensing authority. It shall further be unlawful for any person to operate any marijuana establishment within the City without first having obtained from the Authority a license for the marijuana establishment. Such licenses shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current state or City license shall constitute a violation of this Section.

(b) Any license issued by the Authority under this Article shall expire one year after it is approved.

(c) An application for renewal of an existing license shall be made on forms provided by the Authority. The City Clerk is authorized to administratively process and approve, conditionally approve or deny renewal applications, or refer the license renewal to the City Council who shall approve, conditionally approve, or deny renewal applications. The City Clerk shall not approve a renewal application unless credible evidence of good cause is presented. The City Clerk may impose reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare or to obtain or ensure compliance with this Article, this Code and applicable state law. The City Clerk shall provide written notice of his or her decision, including the reason(s) therefor, by first-class, postage-prepaid U.S. mail to the Applicant at the address shown in the application. An Applicant may request an additional form of notification by electronic mail or other means, as specifically authorized by the Applicant on the Application. An Applicant whose renewal application is denied or conditionally approved may appeal the Clerk's decision to the Authority by filing written notice of appeal with the City Clerk within ten (10) days of the date of mailing of the decision. The Authority shall conduct a hearing on such appeal in accordance with Section 14-209 of this Article. The standard of approval to be applied by the City Clerk as set forth in this subsection (c) shall also apply to the Authority's review of the Application.

(d) At the time of the renewal application, each Applicant shall pay the appropriate fee(s) pursuant to Section 14-214.

(e) A licensee shall collect and remit City sales tax on marijuana, retail marijuana products, medical marijuana-infused products, paraphernalia and other tangible personal property sold at retail. A licensee shall also collect and remit any other taxpayer-approved tax, or any valid fee enacted by the City, pursuant to this Code or any state or federal code.

(1) All City sales tax, taxpayer-approved tax, or valid fee enacted by the City shall be submitted to the City by the licensee on a monthly basis, submitting the monthly amount due by the twentieth (20th) day of the following month. Any City sales tax, taxpayer-approved tax, or valid fee enacted by the City that is submitted by the licensee after the twentieth (20th) day of the following month will be subject to a five percent (5%) late fee. If the twentieth (20th) day falls on any weekend, holiday, or day when City Hall is not open, the amount will be due by the next closest day of business. (Ord. 2033, Sec. 14-206(e)(1), enacted 6/16/17)

(f) A license issued pursuant to this Article does not eliminate the need for the licensee to obtain other required permits or licenses related to the operation of the marijuana establishment, including, without limitation, a conditional use permit, a health department permit, and any development approvals or building permits required by any applicable provisions of this Code.

Section 14-207. Application requirements.

(a) Prior to making an application for a license pursuant to the provisions of this Article, the person potentially seeking the license shall first attend at least one pre-application meeting with the City Manager and such other City staff designated by the City Manager. The purpose of the pre-application meeting is to advise the potential applicant as to the process for applications under this Article, to answer preliminary questions from the potential applicant, and to provide an opportunity to identify issues that might preclude the issuance of a license pursuant to this Article. A person seeking a license pursuant to the provisions of this Article shall submit an application to the City on forms provided by the Authority. As a part of any such application, the applicant shall present for recording one (1) of the following forms of identification:

- (1) An identification card issued in accordance with Section 42-2-302, C.R.S.;
- (2) A valid state driver's license;
- (3) A United States military identification card; or
- (4) A valid passport.

(b) The applicant shall also provide the following information on a form provided by the Authority, which information shall be required for the applicant and the proposed manager of the marijuana establishment:

- (1) Name, address, date of birth, and other identifying information as may be required;
- (2) If the applicant is a business entity, information regarding the entity, including without limitation the name and address of the entity, its legal status and proof of registration with, or a certificate of good standing from, the Colorado Secretary of State, as applicable;
- (3) A copy of the deed reflecting the applicant's ownership of, or a lease reflecting the right of the applicant to possess, the proposed licensed premises;
- (4) If the applicant is not the owner of the proposed licensed premises, a notarized statement from the owner of such property authorizing the use of the property for the particular type of marijuana establishment proposed;
- (5) Evidence of the issuance of a conditional use permit to conduct the proposed marijuana establishment at the proposed location;
- (6) Evidence of the issuance of a license by the state licensing authority for the proposed licensed premises for the type of marijuana establishment proposed;

- (7) If the marijuana establishment will be manufacturing or providing retail marijuana products or medical marijuana-infused products in an edible form, evidence, at a minimum, of a pending application for any food establishment license or permit that may be required by the state and/or Las Animas County;
- (8) Evidence that all applicable fee(s) have been paid;
- (9) A description of the projected demand on City utilities and measures relating thereto, including but not limited to:
 - a. Projected water usage;
 - b. Projected volume and content of discharge into the sewer system;
 - c. Any proposed interceptor, filter or other device necessary to prevent harmful materials from entering the City sewer system; and
 - d. An acknowledgement that the Applicant may be required to dedicate water rights to the City, or otherwise provide an approved alternative means of providing water to the licensed premises, if, in the judgment of the Authority, the projected or actual water usage exceeds the City's capacity to serve.
- (10) Any additional information that the City Clerk reasonably determines to be necessary in connection with the investigation, review and determination of the application.

(c) Upon receipt of a complete application, the City Clerk shall circulate the application to all affected service areas and departments of the City to determine whether the application is in full compliance with all applicable laws, rules and regulations. The Authority shall not act to approve, conditionally approve or deny an initial license Application until after the Authority has conducted a public hearing thereon in accordance with Section 14-209 of this Article. The Authority shall approve an Application upon a finding that the proposed business complies with the requirements of this Article, this Code and the Colorado Medical Marijuana Code and/or Colorado Retail Marijuana Code, as applicable.

(d) In a competitive application process in which there are more applicants than there are available licenses, the Authority shall have as a primary consideration whether an Applicant:

- (1) Has prior experience producing or distributing marijuana or marijuana products pursuant to the Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code; the number of state and local licenses for marijuana which the Applicant currently holds; the number of marijuana licenses or conditional use permits in any given geographic area; the benefit to the community and the public good; and
- (2) Has, during the experience described in paragraph (1) above, complied consistently with all applicable provisions of the Colorado Constitution, Colorado law, state regulations implementing such state laws, and this Code, as well as previous versions of the local ordinances and Codes regarding Marijuana regulation, as applicable.

(3) The Authority shall determine which of the applicants shall proceed with an application for a Conditional Use Permit (CUP). Only the Applicant selected by the Authority may apply for a Conditional Use Permit in a competitive application process.

(e) The Authority may impose reasonable terms and conditions on a license as may be necessary to protect the public health, safety and welfare or to obtain or ensure compliance with this Article, this Code, the Colorado Medical Marijuana Code and/or the Colorado Retail Marijuana Code, as applicable.

(f) After approval of an Application, the City Clerk shall not issue a license or license certificate until the building in which the business is to be conducted is ready for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of this Article. After approval of an Application, the City Clerk shall not issue a license or license certificate until the Applicant provides written evidence that the Applicant has paid all applicable state and local fees due in connection with the Application. Each license certificate issued by the City pursuant to this Article shall specify the date of issuance, the period of licensure, the name of the licensee, and the premises licensed.

Section 14-208. Denial of application.

The Authority shall deny any application that does not meet the requirements of this Article. The Authority shall deny any application that contains any false, misleading or incomplete information. The Authority shall deny an application for good cause. Denial of an application for a license by the Authority shall not be subject to further review, but shall be subject to review by a court of competent jurisdiction.

Section 14-209. Hearings required.

(a) The Authority shall conduct a public hearing on any Application submitted under this Article for a new license or change of location of an existing licensed marijuana establishment and on any appeal of a decision on an Application rendered by the City Clerk in accordance with this Article.

(b) Notice of the hearing shall be posted and published once in a newspaper of general circulation within the City at least ten (10) days before the hearing. Such notice shall describe the type of Application submitted, the date of Application, the name and address of the Applicant, the names and addresses of the officers, directors, or manager of the facility to be licensed, the existing or proposed location of the marijuana establishment, as appropriate, and the date, time and place the hearing will be conducted. Posted notice shall be by a sign in a conspicuous place on the proposed licensed premises, which sign shall comply with the requirements of C.R.S. § 12-43.3-302(2).

(c) The Authority shall issue a written decision approving, conditionally approving or denying an Application requiring a public hearing within thirty (30) days of the conclusion of the hearing. The written decision shall state the reason(s) for the decision and be sent by certified mail to the Applicant at the address shown in the application. An Applicant may request an additional form of notification by electronic mail or other means, as specifically

authorized by the Applicant on the Application. In addition, the Authority shall promptly notify the state licensing authority of its action on an Application for local licensure.

Section 14-210. Transfers of Ownership; Modification of Premises.

(a) The City Clerk is authorized to administratively process and approve, conditionally approve or deny Applications from existing locally-licensed marijuana establishments to transfer or change ownership or to modify the licensed premises. The City Clerk may elect to refer any application to the Authority for decision, even when such application is eligible for administrative approval, in his or her discretion.

(b) The City Clerk shall approve an Application filed pursuant to this Section unless credible evidence of good cause is presented. The City Clerk may impose reasonable terms and conditions on the approval of an Application filed pursuant to this Section as may be necessary to protect the public health, safety and welfare or to obtain or ensure compliance with this Article, this Code and applicable state law.

(c) The City Clerk shall provide written notice of his or her decision, including the reason(s) therefor, by first-class, postage-prepaid U.S. mail to the Applicant at the address shown in the application. An Applicant may request an additional form of notification by electronic mail or other means, as specifically authorized by the Applicant on the Application. An Applicant whose Application is denied or conditionally approved under this Section may appeal the Clerk's decision to the Authority by filing written notice of appeal with the City Clerk within ten (10) days of the date of mailing of the decision. The Authority shall conduct a hearing on such appeal in accordance with Section 14-209 of this Article. The standard of approval to be applied by the City Clerk as set forth in subsection (b) above shall also apply to the Authority's review of the Application.

Section 14-211. Locational criteria and numerical limit on retail marijuana stores and medical marijuana centers.

(a) A marijuana establishment shall be operated from a permanent, fixed location and, except as further limited in this Section, within a zone district of the City that allows for the type of use(s) to be conducted by the marijuana establishment. No marijuana establishment shall be permitted to operate from a moveable, mobile or transitory location. The suitability of a location for a marijuana establishment shall be determined at the time of the issuance of the first license. The fact that later changes in the neighborhood occur that may render the site unsuitable for a marijuana establishment shall not be grounds to suspend, revoke or refuse to renew the license. No marijuana establishment shall be issued a license if, at the time of application for such license, the proposed location is within 1,000 feet of any school, as that term is defined by Section 14-202 of this Code.

(b) The distance limitation set forth in Subsection (a) above shall be computed by direct measurement in a straight line from the nearest property line of the lot used for a school to the nearest property line of the lot on which the new marijuana establishment is proposed to be located.

(c) Consistent with the other requirements of this Section, a marijuana establishment may locate within the following zone districts within the City as a conditional use upon obtaining the necessary conditional use permit in accordance with this Chapter 14: CC, Community Commercial; I, Industrial; and HP, Corazon De Trinidad Historical Preservation District. Location of a marijuana establishment in any zone district not listed in this subsection (c) is expressly prohibited.

(d) Retail Marijuana Cultivation Facility that exceeds 10,000 square feet shall only be allowed in the Industrial zone district north of Kit Carson Bypass/Exit 15 on Interstate 25.

(e) The locational criteria contained in this section shall apply to all proposed changes in the location of an existing license.

(f) Any provisions of this Code concerning home occupations notwithstanding, no marijuana establishment shall be located in any residential zoning district.

(g) No proposed retail marijuana store or medical marijuana center shall be issued a license or a conditional use permit, nor shall an application for a license or conditional use permit be accepted by the City Council or Planning, Zoning, and Variance Commission, if the proposed location, if approved, will exceed the maximum number of locations permitted in the City. The limitation of this paragraph on the maximum number of retail marijuana stores and medical marijuana centers shall not be applied so as to effect licenses or conditional use permits, in existence or applied for, as of May 1, 2016, nor the renewal of such licenses.

(1) The maximum total number of retail marijuana stores and medical marijuana centers when counted together in the City shall not exceed twenty (20) locations. The limitation of this paragraph on the maximum number of retail marijuana stores and medical marijuana centers shall not be applied so as to effect licenses or conditional use permits, in existence or applied for, as of May 1, 2016, nor the renewal of such licenses.

Section 14-212. Marijuana Cultivation Outdoors.

(a) All marijuana cultivation which occurs outdoors or outside of any structure shall be limited to occur only in the City of Trinidad Industrial Park, properties zoned Agricultural, or properties which had conditional use permits for outdoor cultivation applied for or approved at the effective date of this ordinance.

Section 14-213. Inspection of licensed premises.

During all business hours and other times of apparent activity, all licensed premises shall be subject to inspection by the Authority, the Chief of Police, the Fire Chief of the local fire protection district, the Building Official, or the authorized representative of any of them, for the purpose of investigating and determining compliance with the provisions of this Article and any other applicable state or local law or regulation. Such inspection may include, but need not be limited to, the inspection of books, records and inventory. Where any part of the

premises consists of a locked area, such area shall be made available for inspection, without delay, upon request.

Section 14-214. Fees.

The following fees are required at time of application:

(a) For medical marijuana establishments:

(1) Annual Licensing Fee, non-refundable is \$ 1,000 (due with initial application and with each subsequent renewal).

(b) For retail marijuana establishments:

(1) Annual operating fee, non-refundable is \$ 1,000 (due with initial application and with each subsequent renewal).

(c) Cultivation Fee on Retail Marijuana

(1) All retail marijuana cultivated inside the City Limits of the City of Trinidad shall be subject to a \$25 per pound fee due to the City for each cultivated pound produced in a Retail Marijuana Cultivation Facility. This fee shall be dedicated to infrastructure maintenance, repair, replacement, expansion, or new infrastructure systems, to include City Utilities and Public Works. Said fee shall be due and payable monthly by the 20th of each month to the Department of Finance.

If in any month, a Retail Marijuana Cultivation Facility licensee *transfers* marijuana, as defined in Colorado state law, payment of the City's Cultivation Fee shall be paid to the City at a rate of \$25.00 per pound, measured to four decimal places. The filing of said fee shall be accompanied by the City's remittance report and a copy of the State harvest and transfer reports (currently generated through metrc®). If no retail marijuana is transferred in a given month, submission of the monthly harvest and transfer reports is still required to be submitted to the City of Trinidad. Any Retail Marijuana Cultivation Facility that fails to submit the required reports each month or that fails to pay the Cultivation Fee in any month where a transfer has occurred, is in violation of this Article.

All Retail Marijuana Cultivation Facility licensees are required to provide the City Manager or his/her designee access to their operations for physical observation of the same and shall provide access to all financial and inventory records for auditing purposes. The reports submitted by licensees shall be confidential. (Ord. 2046, Sec. 14-214(c)(1), amended, eff. 11-18-17)

(2) All City sales tax, taxpayer-approved tax, or valid fee enacted by the City shall be submitted to the City by the licensee on a monthly basis, submitting the monthly amount due by the twentieth (20th) day of the following month. Any City sales tax, taxpayer-approved tax, or valid fee enacted by the City that is submitted by the licensee after the twentieth (20th) day of the following month will be subject to a five percent (5%) late fee. If the twentieth (20th) day falls on any weekend, holiday, or day when City Hall is not open, the amount will be due by the next closest day of business. (Ord. 2033, Sec. 14-214(c)(2), enacted 6-16-17)

Section 14-215. Prohibited acts generally.

It is unlawful for any licensee to:

- (a) Permit the use or consumption, in any manner, of retail marijuana products, medical marijuana-infused products or marijuana of any type or form, on the licensed premises.
- (b) Permit the consumption of alcohol beverages, as defined in the Colorado Liquor Code, on the licensed premises;
- (c) Purchase or otherwise obtain marijuana, retail marijuana products or medical marijuana-infused products from a source that is not properly authorized under state and local law to sell or dispense the same;
- (d) Dispense marijuana, retail marijuana products or medical marijuana-infused products to a person that is or appears to be under the influence of alcohol or under the influence of any controlled substance, including marijuana.

Section 14-216. Additional operational limitations.

- (a) No marijuana shall be given away, transferred, sold, or otherwise exchanged or transacted at a marijuana establishment, except to a person authorized to possess the same under the laws and Constitution of Colorado.
- (b) All plants and products shall be concealed from public view. Plants, products, accessories, and associated paraphernalia shall not be visible from a public sidewalk or right-of-way. All products shall be in a sealed/locked cabinet except when being accessed for distribution.
- (c) A marijuana establishment shall not exceed its projected demand on City utilities, as stated in its application, or as amended during the application process, without the written approval of the City Utilities Director, who shall issue such approval upon a finding that the proposed increase in demand will not compromise the City's ability to safely and adequately serve all customers of the City utilities.

Section 14-217. Off-site storage facilities prohibited.

It shall be unlawful to locate any off-site marijuana storage facility within the City.

Section 14-218. Nonrenewal, suspension or revocation of license.

(a) The City Clerk may suspend, revoke or refuse to renew a license for good cause.

(1) Temporary-Summary Suspension.

(i) Where the City Clerk has reasonable grounds to believe and finds that a licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety or welfare imperatively requires emergency action and incorporates such findings in its order, it may temporarily or summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined.

(ii) The temporary suspension of a license without notice pending any prosecution, investigation, or public hearing shall be for a period not to exceed fifteen days.

(b) The City Clerk shall not suspend or revoke a license until after notice and an opportunity for hearing has been provided to the licensee. The hearing will be noticed and conducted in accordance with Section 14-209, and held by the Authority.

(c) The Authority shall not hold a hearing on a license renewal application unless a complaint has been filed concerning the licensee or there are allegations against the licensee that, if established, would be grounds for suspension, revocation or non-renewal under Subsection (a) of this Section.

Section 14-219. Violations and penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this Article, any person, including but not limited to any licensee, manager or employee of a marijuana establishment, or any customer of such business, who violates any provision of this Article, shall be guilty of a misdemeanor punishable in accordance with Section 1-8 of this Code.

Section 14-220. No City liability; indemnification; no defense.

(a) By accepting a license issued pursuant to this Article, the licensee waives any claim concerning, and releases the City, its officers, elected officials, employees, attorneys and agents from, any liability for injuries or damages of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers of the licensee for a violation of state or federal laws, rules or regulations.

(b) By accepting a license issued pursuant to this Article, all licensees, jointly and severally if more than one (1), agree to indemnify, defend and hold harmless the City, its officers, elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of the marijuana establishment that is the subject of the license.

(c) The issuance of a license pursuant to this Article shall not be deemed to create an exception, defense or immunity for any person in regard to any potential criminal liability the person may have under state or federal law for the cultivation, possession, sale, distribution or use of marijuana.

ARTICLE 13. CERTIFIED LOCAL GOVERNMENT.

(Ord. 1975, Article 13, eff. 6-2-15)

Section 14-245. Historic Preservation Commission

(1) Establishment. There is hereby created a Historic Preservation Commission, hereinafter in this Chapter 14, Article 13 referred to as the *Commission*.

(2) Membership.

(a) The Commission shall consist of five (5) members providing a balanced, community-wide representation, and all shall have an interest in historic preservation. The Commission shall have at least one (1) design professional, (1) licensed real estate broker and (3) members at large. Commission members shall not be members of the Trinidad City Council or a City Council Officer as defined in Section 2-16 of the Code of Ordinances.

(b) A majority of the voting members of the Commission shall be residents of the City of Trinidad for a minimum of one (1) year prior to appointment. The remaining member of the Commission must reside in Las Animas County and must either own property within the City and/or have a licensed business within the City.

(3) Appointments and Terms.

(a) Members of the Commission shall be appointed by the Trinidad City Council and shall serve a three year staggered term from the date of appointment. In order to stagger the initial terms of membership the original membership shall serve as follows:

One (1) appointment shall serve a one-year term

Two (2) appointments shall serve two year terms

Two (2) appointments shall serve three year terms

(b) Members may be reappointed by the City Council to serve successive terms without limitation.

(c) Appointments to fill vacancies on the Commission shall be made by the City Council. Such appointments shall be for the remainder of the vacated term only.

(d) Members of the Commission may be removed by a majority vote of the City Council for just cause, which includes neglect of duty, acts detrimental to the City's interest, malfeasance in office or excessive absences. Absences by members of the commission of three consecutive meetings or three absences in a six month rolling period shall be cause for evaluation by City Council for the purpose of consideration of the member's removal from the Commission. The City Clerk shall advertise vacancies in a newspaper of local circulation requesting that interested individuals submit a letter indicating their interest and qualifications for the position advertised.

(4) Officers and Voting

(a) The Commission shall by majority vote, elect one (1) of its members to serve as chairperson to preside over the Commission's meetings. This shall be done at the first meeting of each calendar year. This term shall be for one (1) year with eligibility for re-election.

(b) A quorum for the Commission shall consist of a majority of the regular membership. A quorum of 3 members is necessary for the Commission to hold a public hearing or to take official actions. A tie vote shall be deemed a denial of the motion or recommended motion.

(5) Meetings and Appearances

(a) The Commission shall hold at least one (1) regular meeting per quarter, with monthly meetings as necessary. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. The City shall provide an administrative staff person to assist with this function.

(b) No member of the Commission shall appear on his/her own behalf or on the behalf of any private person before either the Historic Preservation Commission or the City Council in connection with any matter before the Commission.

Section 14-246. Powers, Duties and Authority of the Commission

The Commission shall act in a quasi-judicial manner, and it shall have the following powers, duties and rulemaking authority:

(1) Adopt criteria for review of historic properties and for review of proposals to alter, demolish or relocate designated properties.

(2) Review properties nominated for designation as a local landmark and recommend that the City Council designate by ordinance those properties qualifying for such designation. Nominated properties will only be reviewed once the property owner has given written permission for the designation; Review districts nominated for designation as local historic districts and recommend that the City Council designate by ordinance those districts qualifying for such a designation.

Nominated districts will only be reviewed once 100% of the property owners have given written permission for the designation.

- (3) Review and make decisions on any application for alterations to a designated historic landmark.
- (4) Review and make decisions on any application for moving or demolishing a historic landmark.
- (5) Maintain a list of significant historic properties through the periodic updating of the Trinidad Inventory of Historic Buildings.
- (6) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the National Register of Historic Places.
- (7) In conjunction with the local historical based organizations, the Commission should seek to develop and assist in public education programs, lectures and conferences.
- (8) Conduct surveys of historic areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas and structures.
- (9) Advise the Planning, Zoning and Variance Commission and the Trinidad City Council on matters related to preserving the historic character of the City.
- (10) Actively pursue financial assistance for preservation-related programs through grants and by other means in partnership and collaboration with other entities as much as possible.
- (11) Recommend removal of properties from the register of local landmarks if the criteria for revocation of designation are met.

Section 14-247. Local Historic Landmark Designation

- (1) Pursuant to the procedures hereinafter set forth in Section 14-246(2), the City Council may, by ordinance designate as a landmark an individual structure or an integrated group of structures on a single lot or site having a special historical or architectural value;
 - (a) Each such designating ordinance shall include a description of the characteristic of the landmark which justifies its designation and a description of the particular features that should be preserved, and shall include a legal description of the location, boundaries of the landmark site and the character defining features that qualify the landmark for designation.
 - (b) Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Section 14-247(3).
 - (c) The property included in any such designation shall be eligible for such incentive programs as may be developed by this Commission and the City Council.

(d) No such designating ordinance will be enacted involving a property without written permission from the property owner.

(2) Procedures

(a) A nomination for designation may be made by any property owner desiring to obtain a landmark designation by filing an application with the City of Trinidad Planning Department.

(b) The Commission shall hold at least one (1) public hearing on the proposal no more than forty-five (45) days after the filing of the application. The notice of the time and place of the public hearing shall be made by one (1) publication in a newspaper of local circulation in the City. The Commission shall review the application for conformance of the proposed designation with the established criteria for designation and the standards set forth in Section 14-247(3).

(c) At the conclusion of the public hearing or within not more than forty (40) days after the conclusion of the public hearing, the Commission shall 1) approve or 2) modify and approve or 3) disapprove the proposal by a majority vote.

(d) The Commission shall forward its recommendation and written report to the Trinidad City Council for consideration and final action.

(3) Standards for local landmark designation

The Trinidad Historic Preservation Commission, duly empowered as defined in Section 14-246(2), will evaluate and determine the merit of sites as defined in Section 14-247(3), for local landmark designation. The following historical, architectural or geographic criteria shall be used in this determination:

(A) If it is at least fifty (50) years old; AND

(B) If it has historic importance. Historical importance relates to a building, structure, object and/or site that:

(a) Has character, interest, value and which has affected the development, heritage, or cultural characteristics of the City, the State of Colorado or the Nation; or

(b) Is the site of a historic event that has interest, value and which has affected the development, heritage, or cultural characteristics of the City, the State of Colorado or the Nation; or

(c) Is identified with a person or group of persons who had some influence on the development, heritage and cultural characteristics of the City, the State of Colorado or the Nation; or

(d) Exemplified the cultural, political, economic, social or historical heritage of the community; OR

(C) If it has architectural importance. Architectural importance relates to a building, structure, object and/or site that:

- (a) Portrays the environment of a group of people in an era of history; or
- (b) Embodies the distinguishing characteristics of a significant or unique architectural type specimen; or
- (c) Is the work of an architect or master builder whose individual work has influenced the character of the City, State of Colorado or the Nation; or
- (d) Contains elements of design, detail, materials or craftsmanship which represent a significant architectural style; OR

(D) If it has geographic importance. Geographic importance relates to a building, structure, object and/or site that:

- (a) Should be preserved based on a consistent historic, cultural or architectural motif; or
- (b) Due to its unique location or singular physical characteristics represents an established and familiar visual feature of the city.

(E) Any site listed on the State or National Register of Historic Places shall be deemed to qualify for local designation under this Section 14-247(3), but is not automatically designated as a Local Landmark and must submit an application to receive the designation.

Section 14-248. Local Historic District Designation

(1) Pursuant to the procedures hereinafter set forth in Section 14-246(2), the Trinidad City Council may, by ordinance designate as a district a contiguous area as having a special historical or architectural value;

- (a) Each such designating ordinance shall include a description of the characteristic of the district which justifies its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the district area.
- (b) The designating ordinance may also indicate alterations which would have a significant impact upon, or be potentially detrimental to, the district area.
- (c) Any such designation shall be in furtherance of and in conformance with the purposes and standards of Section 14-248(3).
- (d) The district included in any such designation shall be eligible for such incentive programs as may be developed by the Trinidad Historic Preservation Commission and the Trinidad City Council.

(2) Procedures

- (a) A nomination for designation may be made by any property owner desiring to obtain a district designation by filing an application with the City of Trinidad Department of Planning.
- (b) The Planning Department shall contact every property owner of record within the boundaries of the proposed district outlining the reasons and effects of the designation and, secure the consent of 100% of the ownership within the proposed area before the nomination is accepted as complete for review.
- (c) The Commission shall hold at least one (1) public hearing on the proposal no more than forty-five (45) days after the nomination has been accepted for review. The notice of the time and place of the public hearing shall be made by one (1) publication in a newspaper of local circulation in the City. The Commission shall review the nomination for conformance of the proposed designation with the established criteria for designation and the standards set forth in Section 14-248(3).
- (d) At the conclusion of the public hearing or within not more than forty (40) days after the conclusion of the public hearing the Commission shall 1) approve, or 2) modify and approve or 3) disapprove the proposal by a majority vote.
- (e) The Commission shall forward its recommendation and written report to the Trinidad City Council for consideration and final action.

(3) Standards for local landmark designation

The Trinidad Historic Preservation Commission, duly empowered as defined in Section 14-246(2), will evaluate and determine the merit of sites as defined in Section 14-248(3), for local district designation. The following historical, architectural or geographic criteria shall be used in this determination:

- (A) The proposed district has a percentage of structures that are at least (50) years old; AND
- (B) The proposed district has historical importance. Historical importance relates to a district and/or area that:
 - (a) Has character, interest, value and which has affected the development, heritage, or cultural characteristics of the City, the State of Colorado or the Nation; or
 - (b) Is the site of a historic event that has interest, value and which has affected the development, heritage, or cultural characteristics of the City, the State of Colorado or the Nation; or
 - (c) Is identified with a person or group of persons who had some influence on the development, heritage and cultural characteristics of the city, the State of Colorado or the Nation; or

(d) Exemplified the cultural, political, economic, social or historical heritage of the community; OR

(C) The proposed district architectural importance. Architectural importance relates to a district and/or area that:

(a) Portrays the environment of a group of people in an era of history; or

(b) Embodies the distinguishing characteristics of a significant or unique architectural type specimen; or

(c) Includes the work of an architect or master builder whose individual work has influenced the character of the City, State of Colorado or the Nation; or

(d) Contains elements of design, detail, materials or craftsmanship which represent a significant architectural style; OR

(D) The proposed district has geographic importance. Geographic importance relates to a district and/or area that:

(a) Should be preserved based on a consistent historic, cultural or architectural motif; or

(b) Due to its unique geography or physical characteristics represents an established and familiar visual feature of the City.

Section 14-249. Revocation of a Designation

(1) Revocation of local historic landmark designation from buildings, structures, objects and/or sites.

(a) If a designated local landmark is lawfully removed, demolished or the victim of a natural disaster, the Trinidad Historic Preservation Commission and/or the property owner may request that the Trinidad City Council take action to revoke the local historic landmark designation.

(b) Trinidad City Council must revoke a designation by ordinance. Revocation of a designation is final.

(2) Revocation of local historic district designation from districts and/or areas.

(a) If a designated local district is significantly depleted of its qualifying historic structures or is the victim of a natural disaster, the Trinidad Historic Preservation Commission may request that the Trinidad City Council take action to revoke the local historic district designation.

(b) Trinidad City Council must revoke a designation by ordinance. Revocation of a designation is final.

Section 14-250. Landmark Alteration Certificates

(1) No person shall carry out or permit to be carried out on a designated landmark property any new construction, alteration, removal or demolition of a building or other designated feature without first obtaining a landmark alteration certificate for the proposed work.

(a) The City of Trinidad Building Department shall be provided a current record of all designated landmark properties and pending designations by the Historic Preservation Committee. The Building Department will refer any requests regarding these properties to the City of Trinidad Planning Department.

(2) Construction on proposed landmark properties.

(a) No person shall receive a permit to construct, alter, remove or demolish any structure or other feature on a proposed landmark property after an application has been filed to landmark the property. Any such permit will be placed on hold until the landmark proceedings have come to a conclusion.

(3) Landmark alteration certificate application and Commission review.

(a) An owner of property which has been designated as a local landmark or a property that is located within a locally designated historic district will be required to apply for a landmark alteration certificate before making any alterations to the exterior appearance of the property.

(b) The City of Trinidad Planning Department will process the landmark alteration certificate application as well as any required design specifications that illustrate the proposed changes to the landmarked property.

(c) The City of Trinidad Planning Department shall make available a detailed list of submittal requirements for the applicant's use.

(A) Administrative Review Process for Minor Alterations.

(I) A streamlined administrative review process shall be made available to applicants proposing minor changes to a landmarked structure.

(II) The Commission shall establish written eligibility and review criteria for the staff to follow. The staff may request that the submitted review be scheduled for formal review by the Commission if there is any uncertainty as to the intent of the criteria as it applies to a specific request.

(III) The administrative process shall be concluded within fifteen (15) days of a complete application submittal. The applicant may appeal any administrative decision to the Commission by submitting an appeal request in writing to the City Clerk within fifteen (15) days of the administrative ruling.

(B) Meeting and Hearing Requirements.

(I) The Commission shall hold a public meeting on all applications for landmark alteration certificates within forty-five (45) days after an application has been received by the City of Trinidad Planning Department.

(II) The Commission shall hold a noticed public hearing which is required for requests involving demolition or removal of a landmarked structure. Notice of time, date and place of such hearing, and a brief summary of explanation of the subject matter of the hearing, shall be posted on the property in a manner visible from all adjacent public rights-of-way at least fifteen (15) days prior to the hearing. The applicant is responsible for accomplishing the public notice.

(C) Commission Review.

(I) At the conclusion of the public hearing or within not more than forty (40) days after the conclusion of the public hearing the Commission shall determine whether the application meets the established review standards for alterations as outlined in Section 14-251(1).

(II) The Commission shall adopt written findings and conclusions and either approve, or approve with conditions or disapprove the application by a majority vote.

(D) Extension of Review Period.

(I) When reviewing alteration certificate applications involving moving or demolition of a landmarked structure, the Commission may extend the review period up to ninety (90) additional days if the Commission finds the original application does not meet the established review standards for alterations.

(II) The ninety-day extension period shall be used to encourage both the applicant and the Commission to explore acceptable alternative solutions to the original submittal.

(4) Appeal or call-up of disapproved proposals.

(a) A decision of the Commission approving or disapproving an application for alteration or extending the review period on the application is final unless appealed to the Trinidad City Council as provided below:

(A) An applicant may appeal any decision of the Commission to the City Council by filing a written notice of appeal with the Planning Department within fifteen (15) days of the Commission's decision.

(B) Council Meeting and Decision.

(I) Within forty-five (45) days of the date of any decision of the Commission to disapprove or modify an alteration certificate application, the Council shall hold a public meeting on the matter.

(II) Where a decision to move or demolish a landmarked structure is involved, public notice shall be required in accordance with Section 14-250(3)(c)(B)(II).

(III) The Council shall consider the written findings and conclusions of the Commission and the proposal's conformance to adopted alteration certificate criteria as noted in Section 14-251(1) and shall approve, or approve with conditions, or disapprove the proposed application.

(C) Undue Hardship Appeals.

(I) The Council may consider claims of economic or undue hardship in cases where an applicant was denied an alteration certificate by the Commission.

(II) The applicant must provide adequate documentation and/or testimony at the Council meeting to justify such claims. The following includes the type of information, plus any other information the applicant feels is necessary, which must be submitted in order for the Council to consider a hardship appeal:

(1) Estimate of the cost of the alteration proposed under the denied alteration certificate, and an estimate of any additional costs which would be incurred to comply with the alterations recommended by the Commission.

(2) Estimates of the value of the property in its current state, with the denied alterations, and with the alterations proposed by the Commission.

(3) Information regarding the soundness of the structure or structures, and the feasibility for rehabilitation which would preserve the character and qualities of the designation.

(4) In the case of income-producing properties, the annual gross income from the property, the operating and maintenance expenses associated with the property, and the effect of the proposed alterations and Commission-recommended alterations on these figures.

(5) Any information concerning the mortgage or other financial obligations on the property which are affected by the denial of the proposed alterations.

(6) The appraised value of the property.

(7) Any past listing of the property for sale or lease, the price asked, and any offers received on that property.

(8) Information relating to any nonfinancial hardship resulting from the denial of an alteration certificate.

(III) The Council may refer the information for review by the Commission prior to rendering its final decision on any hardship related appeal. If it is determined that the denial of the certificate of alteration would pose an undue hardship on the applicant, then a certificate of alteration noting the hardship relief shall be issued, and the property owner may make the alterations outlined in the alteration certificate application.

(5) Issuance of a landmark alteration certificate.

(a) The Planning Department shall issue a landmark alteration certificate if an application has been approved by the Commission or appealed and approved by the City Council.

(b) Time Limit. When approving an application for a landmark alteration certificate, the Commission or City Council may impose a time limit for the applicant to apply for a building permit conforming to the certificate.

(6) Unsafe or dangerous condition exempted.

(a) Nothing in this Chapter 14, Article 13 of the Code of Ordinances shall be construed to prevent any measures of construction, alteration, removal or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature or parts thereof where such condition is declared unsafe or dangerous by the City Building Official or Fire Inspector and where the proposed measures have been declared necessary by the City Manager to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a landmark alteration certificate under this Ordinance, but a certificate is required for permanent alteration, removal or demolition.

(7) Property maintenance required.

(a) The City Council intends to preserve from deliberate or inadvertent neglect the exterior portions of designated landmarks and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee or occupant of any landmark shall fail to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of the structure on the effective date of the successful landmark status of the property.

(b) No owner, lessee or occupant of any contributing property within a locally designated historic district shall fail to comply with all applicable provisions of Section 14-250(7)(a) regulating property maintenance.

(c) Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any external architectural feature which does not involve change in design, material, color or outward appearance of a designated landmark.

Section 14-251. Criteria to review alteration certificate

(1) The Commission and City Council shall consider the proposed alteration for conformance with the Secretary of Interior's Standards for Rehabilitation. Conformance to specific alteration criteria for individual properties, structures or districts imposed at the time of initial designation must also follow the Secretary of Interior's Standards for Rehabilitation.

(2) The Commission and City Council may adopt additional criteria or policy design guidelines to aid in the review of alteration certificate applications. Such criteria and policies shall be written and made available to all alteration certificate applicants and the general public.

Section 14-252. Non-locally Landmarked Properties on the National and/or State Historic Register

(1) Public notice and hearing requirement prior to proposed alterations.

(a) **Affected Properties.** Structures listed on the National Historic Register and/or the State Historic Register which are still standing and which have not been designated by the City as a local historic landmark may be subject to notice and hearing requirements prior to the issuance of a building permit for any proposed building alteration involving a significant change to a building's exterior appearance, building removal or building demolition.

(b) **Public Meeting and Hearing Required.** Before a building permit can be issued for proposed alterations to such structures as identified in Section 14-252(1)(a), the proposal shall be considered at a public meeting before the Commission no later than forty-five (45) days after the request for building permit has been accepted by the City Building Department.

(c) If the permit involves building removal or demolition, public notice of the meeting shall be required. Notice of time, date and place of such meeting, and a brief summary of explanation of the subject matter of the hearing, shall be posted on the property in a manner visible from all adjacent public rights-of-way at least ten (10) days prior to the hearing. The City shall be responsible for accomplishing the public notice.

(d) The purpose of the meeting shall be to review the proposed alteration with the applicant and, if warranted, discuss alternative designs, materials and actions with the applicant which would better preserve the historic character of the property.

(e) Within five (5) days following the public meeting, the applicant shall be entitled to be granted a building permit for the proposed alteration, changed or unchanged, assuming that all other City codes and requirements have been met and if no application for landmark designation has been submitted.

Section 14-253. Penalties and Sanctions

(1) **Prohibition.** No person shall violate or permit to be violated any of the requirements of this Section 14-250 or the terms of a landmark alteration certificate.

(a) **Criminal Penalties.** The following violations of this Chapter are punishable by a fine of up to one thousand dollars (\$1,000.00):

(A) Moving or demolishing a designated landmark structure without an approved landmark alteration certificate.

(B) Other types of alterations to a designated landmark without an approved landmark alteration certificate.

(C) Moving, demolishing or otherwise altering a structure with a pending application for landmark designation.

(D) Alterations to a defined historically significant structure without having first undergone the required public meeting process.

(b) Council Sanctions. Irrespective of the imposition of the criminal penalties provided above, the City Council may impose the following nonpenal sanctions if, after a due process hearing, it is found that the provisions of Section 14-250 have been violated:

(A) Moving or demolishing a designated landmark structure without an approved landmark alteration certificate. The Council may restrict the issuance of any building permits on the site for a period of up to five (5) years, in addition to any fines imposed through the Municipal Court.

(B) Other types of alterations to a designated landmark without an approved landmark alteration certificate. The Council may require that the structure be returned to its original state or restrict the issuance of any building permit on the site for up to two (2) years, in addition to any fines imposed through the Municipal Court.

(C) Moving, demolishing or otherwise altering a structure with a pending application for landmark designation. The Council may restrict the issuance of any building permit on the site for a period of up to five (5) years, in addition to any fines imposed through the Municipal Court.

(D) Alterations to a defined historically significant structure without having first undergone the required public meeting process. The Council may restrict the issuance of any building permit on the site for a period of up to two (2) years, in addition to any fines imposed through the Municipal Court.