



## **CITY OF TRINIDAD TRINIDAD, COLORADO**

The City Council will hold its regular Work Session on  
Tuesday, May 14, 2013 at 1:30 p.m.  
City Hall Council Chambers, Third Floor, City Hall

### **AGENDA**

1. Petitions and Communications, Oral or Written
2. Consideration of Resolution supporting application to the Colorado Office of Economic Development and International Trade – Creative Industries Program – to secure a Creative District designation – Tom Acre, City Manager
3. Discussion regarding Engineering Proposal for Water Treatment Plant Improvements Design – Jim Fernandez, Utilities Superintendent
4. Discussion regarding Segundo Water Line Replacement Project – Jim Fernandez, Utilities Superintendent
5. Consideration of an ordinance correcting errors and omissions within Section 12-12 of Article 2, of Chapter 12, of the Code of Ordinances of the City of Trinidad relating to the City's Electric Service, Power and Energy Rates – Tom Acre, City Manager
6. Update and discussion regarding proposed changes to Chapter 5 of the Code of Ordinances - Buildings – Les Downs, City Attorney/Chris Kelley, Chief Building Inspector
7. Discussion of other agenda items

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



**CITY OF TRINIDAD, COLORADO**  
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## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** May 14, 2013  
**PREPARED BY:** Audra Garrett, City Clerk  
**DEPT. HEAD SIGNATURE:** *Audra Garrett*  
**# OF ATTACHMENTS:** 1

**SUBJECT:** Resolution supporting application to the Colorado Office of Economic Development and International Trade – Creative Industries Program – to secure a Creative District designation

**PRESENTER:** Tom Acre, City Manager

**RECOMMENDED CITY COUNCIL ACTION:** Considering inclusion of the resolution on the Regular Meeting Agenda of May 21<sup>st</sup> to include in the City's application

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** N/A

**ALTERNATIVE:** Council could suggest alternative language

### BACKGROUND INFORMATION:

- The City is in the process of preparing an application to secure designation as a Creative District.
- The City's Arts and Culture Advisory Commission is taking a leadership role in preparing the application.
- Councilmember Bolton, as the liaison of the Arts and Culture Advisory Commission, requests Council formally adopt a resolution supporting this effort.



**CITY OF TRINIDAD, COLORADO**

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY OF TRINIDAD, COLORADO, SUPPORTING APPLICATION TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE - CREATIVE INDUSTRIES PROGRAM - TO SECURE A CREATIVE DISTRICT DESIGNATION**

WHEREAS, the City of Trinidad, recognizing the economic benefit to be gained through the pursuit of arts and culture within the community created an Arts and Culture Advisory Commission over 20 years ago in January, 1993; and

WHEREAS, the Arts and Culture Advisory Commission has been an active and productive City board throughout that 20 years; and

WHEREAS, in 2012 the City of Trinidad was recognized as an Emerging Creative District by the Colorado Office of Economic Development and International Trade Creative Industries program; and

WHEREAS, Trinidad is very proud of its local artistic talent and cultural diversity and felt honored to have been given the distinction of being named an Emerging Creative District; and

WHEREAS, the City of Trinidad feels very strongly that it is deserving of an official Creative District designation and will commit to living up to the high standards of such designation and will continue to pursue an arts-based redevelopment strategy for the economic well-being of this community.

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

The City Council of the City of Trinidad supports application to the Colorado Office of Economic Development and International Trade – Creative District Program for the purpose of securing a Creative District designation and hereby commits to living up to the high ideals and standards of such a designation and will continue to pursue an arts-based redevelopment strategy for the economic well-being of this community.

APPROVED and ADOPTED this 21st day of May, 2013.

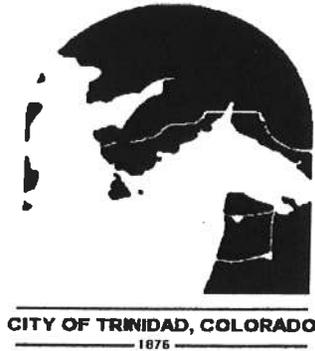
BERNADETTE BACA GONZALEZ,  
MAYOR

ATTEST:

AUDRA GARRETT, CITY CLERK

RESOLUTION NO. \_\_\_\_

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## Council Communication

City Council Meeting: April 9, 2013 Work Session

Prepared: April 4, 2013

Dept. Head Signature: *JF*

# of Attachments: One (1)

**SUBJECT:** Engineering Proposal for Water Treatment Plant Improvements Design

**Presenter:** Utility Superintendent, James Fernandez  
Kevin Meador, Black and Veatch Engineering Consultant

**Recommended City Council Action:** Review and Schedule for Regular Council Meeting

**Summary Statement:** This engineering proposal is in response to a survey and inspection of the WTP conducted in 2011 by the Colorado Department of Public Health and Environment.

**Expenditure Required:** \$91,900

**Source of Funds:** Water Department Reserve

**Policy Issue:** N/A

**Alternative:** N/A

**Background Information:** This engineering proposal is in response to a survey and inspection of the WTP conducted in 2011 by the Colorado Department of Public Health and Environment. That inspection pointed out the need for the City to upgrade the WTP facility to include 1) refurbish or abandon the standing water tank, 2) modify and upgrade the chlorine disinfection system, 3) construct new filter backwash tank system, 4) replace existing filter bed backwash valves and actuators and WTP inlet and drain valves, and 5) design new residuals storage pond.

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**BLACK & VEATCH**  
Building a world of difference.®

Kevin J. Meador,  
P.E.  
Project Manager,  
Water

6300 S. SYRACUSE  
WAY, SUITE 300  
CENTENNIAL  
CO 80111  
USA  
+1 720-834-4255 P  
+1 720-252-4205 M  
+1 720-834-4275 F

11 March 2013

Mr. James Fernandez  
Utility Superintendent  
City of Trinidad  
P. O. Box 880  
Trinidad, CO 81082

Dear Mr. Fernandez,

**Subject: Proposal to Prepare a Water Treatment Plant Improvements  
Conceptual Design and Capital Improvements Plan**

Black & Veatch appreciates the opportunity to provide this proposal for professional services related to the Water Treatment Plant Improvements (WTP) Conceptual Design and Capital Improvements Plan (CIP) project for the City of Trinidad (City). As outlined herein, our familiarity with the WTP combined with our current knowledge and experience in all areas of water treatment technology, will assure that the City can effectively plan for and implement the improvements necessary to maintain the reliability of its very important WTP asset.

**Project Description**

The City is proposing a number of improvements to the existing WTP that include in order of priority:

- Replace a number of aging filter valves and valve actuators in the pipe gallery.
- Relocate and upgrade the chlorine disinfection facilities.
- Rehabilitate or replace the existing filter backwash water supply system.
- Construct additional residuals pond capacity.

Note that the document titled Sanitary Survey of the City of Trinidad, dated October 17, 2011, as prepared by the Colorado Department of Public Health and Environment (CDPHE), has suggested that the City consider the installation of (1) a new filter-to-waste system and (2) mechanical sludge removal in the sedimentation basins. Although, the City has considered these suggested WTP modifications, the cost benefits are not favorable, given that the existing raw source water is reliably high quality throughout the year. Therefore, further consideration of these proposed improvements are not included in the scope of services described herein.

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## Scope of Services

The following tasks and associated engineering services have been discussed and finalized recently with the City. The listing provided herein outlines how Black & Veatch proposes to develop and produce the Conceptual Design and CIP.

All cost estimating to be performed will be in accordance with a Class 4 facility planning cost estimate as defined by the Association for the Advancement of Cost Estimating.

Enclosed for additional reference is a preliminary schedule that assumes the engineering would proceed by April 1, 2013.

## Management Tasks

### Task 110 – Project Management

The following administrative tasks will be performed over the duration of the project:

#### Activities

- Conduct bi-weekly progress meetings and schedule updates via telephone.
- Prepare monthly invoicing and budget status.

#### Deliverables

- Monthly invoices.

### Task 120 – Site Visits and Meetings

Site visits are proposed to provide opportunities for the Engineer to visit the WTP. The following site visit is anticipated:

1. *Project Kick-off Meeting and WTP Site Tour.* Engineer's key project team members will conduct a meeting with the City at the WTP to discuss project scope in detail, confirm the project objectives and develop an initial document and information needs list. Project team will tour the WTP site to gather information, take pictures, perform cursory condition assessments, and identify locations for proposed new facilities. Engineer will develop meeting minutes, including a list of requested information and data to be provided by the City.

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## Engineering Tasks

### Task 210 – Chlorine Storage and Feed Facility

Understanding the existing chlorine room is non-compliant with CDPHE requirements, Black & Veatch proposes to develop and evaluate the following chlorine storage and feed facility concept:

1. Construct new enclosed structure to house the existing chlorine gas bulk delivery, storage, and feed equipment.

#### Activities

- Perform a comprehensive regulatory and building code review. Verify regulatory requirements as to whether or not emergency chlorine gas scrubber equipment will be required.
- Establish the design criteria for treated water flow rates and associated chemical dosage.
- If it is determined emergency chlorine gas scrubbing will be required, establish design criteria for scrubbing equipment type and capacity.
- Size the building to accommodate future sodium hypochlorite.
- Obtain budgetary equipment costs from manufacturers.
- Establish review requirements with the Colorado Department of Public Health and Environment (CDPHE).
- Prepare a cost estimate, including contingency for each proposed alternative.
- Prepare an opinion of cost for 25-year present worth, life cycle, operation and maintenance (O&M) cost.
- Prepare a draft technical memorandum (TM) that includes the following information:
  - Summary descriptions and preliminary drawings.
  - Tabular presentation of OPCC and present worth O&M cost.
  - Listing of advantages and disadvantages.
- - Recommended action based on best value to the City. Submit the TM to the City for review and comment.
- Respond to the City's review comments and revise the TM as appropriate.

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Deliverables

- Electronic copy of draft and final TMs.

Information and Assistance Provided By City

- Consolidated, written review comments on the draft TM.

**Task 220 – Filter Backwash Water Supply**

Black & Veatch proposes to develop and evaluate the following three alternative concepts for providing backwash water supply in the future:

PROPOSAL TO  
PREPARE A WATER  
TREATMENT PLANT  
IMPROVEMENTS  
CONCEPTUAL DESIGN  
AND CAPITAL  
IMPROVEMENT PLAN

11 MARCH 2013

1. *Construct New, At Grade, Circular, Steel Tanks (2) and Backwash Pump Station.* During the construction period, the existing elevated steel tank and backwash system will remain in-service. After the new system is put into service, the existing steel tank will be demolished or abandoned.
2. *Construct New, At Grade, Circular, Prestressed Concrete Tanks (2) and Backwash Pump Station.* During the construction period, the existing elevated steel tank and backwash system will remain in-service. After the new system is put into service, the existing steel tank will be demolished or abandoned.
3. *Construct New, At Grade, Rectangular, Two Cell, Cast-in-Place Concrete Tank and Backwash Pump Station.* During the construction period, the existing elevated steel tank and backwash system will remain in service. After the new system is put into service, the existing steel tank will be demolished or abandoned.

**Alternatives 1, 2, and 3**

Activities

- Establish the design optimum backwash water storage and pumping capacity required for the new filter backwash system.
- Develop a conceptual tank layout, site, piping, and process flow diagrams for each proposed alternative.
- Prepared a cost estimate, including contingency for each proposed alternative.
- Prepare an opinion of cost for 25-year, present worth, life-cycle, O&M cost for each proposed alternative.
- Consider water pressure requirements to the adjacent caretaker's house.

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### Evaluation and Recommendation

- Prepare a draft TM that includes the following information for each of the three alternatives:
  - Summary descriptions and preliminary drawings.
  - Tabular presentation of OPCC and present worth O&M cost.
  - Listing of advantages and disadvantages.
  - Recommended alternative based on best value to the City.
- Submit the TM to the City for review and comment.
- Respond to the City's review comments and revise the TM as appropriate.

PROPOSAL TO  
PREPARE A WATER  
TREATMENT PLANT  
IMPROVEMENTS  
CONCEPTUAL DESIGN  
AND CAPITAL  
IMPROVEMENT PLAN

11 MARCH 2013

### Deliverables

- Electronic copies of draft and final TMs.

### Information and Assistance Provided By City

- Consolidated, written review comments for the draft TM.

### Task 230 – Replace Existing Filter Valves and Actuators

The existing valves and actuators to be replaced include those for service on the filtered water effluent, master backwash, individual filter backwash, filter drain, and filter influent piping.

### Activities

- Identify and document in detail each valve and/or actuator that the City would like to replace and note its condition and operational issues.
- For each valve to be replaced, identify viable replacement alternatives. Electric valves will be considered to replace the hydraulic valves.
- Prepared a cost estimate, including contingency for each replacement alternative.
- Develop a phased and prioritized valve replacement plan for one main backwash valve, three drain valves, three influent valves, and three effluent valves.
- Prepare a draft TM summarizing the valve replacement alternatives and recommending the alternatives that will provide the best value.
- Address City review comments on draft TM.

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CITY OF TRINIDAD  
MR. JAMES  
FERNANDEZ

PROPOSAL TO  
PREPARE A WATER  
TREATMENT PLANT  
IMPROVEMENTS  
CONCEPTUAL DESIGN  
AND CAPITAL  
IMPROVEMENT PLAN

11 MARCH 2013

- As an optional service, B&V will provide construction phase services to the City to include preparation of bid documents, bid advertising, addressing questions during bidding, addenda preparation (if necessary), bid reviews, and a recommendation for bid award. B&V will assist the City in reviewing valve submittals and in construction administration during construction. The cost of this service will be negotiated prior to preparation of the bidding documents.

#### Deliverables

- Electronic copy of draft and final TM.

#### Information and Assistance Provided By City

- Consolidated, written review comments on the draft TM.

#### **Task 240 – Conceptually Design Additional Residuals Storage Pond Capacity**

A new residuals storage pond is proposed to supplement the existing pond and provide redundant storage capacity. This will allow the two ponds to be cycled such that one pond is always in-service and the other is out-of-service for drying and cleaning.

#### Activities

- Establish the optimum design storage capacity for the new pond.
- Develop a conceptual pond plan and profile. The City will furnish the site topography map of the pond area. B&V will establish the site limits for the topo survey.
- Prepare a cost estimate, including contingency, for the construction of the new pond.

#### **Task 250 – Capital Improvements Plan for Recommended WTP Improvements**

The capital improvements plan document will summarize the conceptual design phase of the work and the resulting recommended improvements. In addition, the improvements will be prioritized for implementation necessity and the City budget constraints. It is intended to perform the WTP valve replacements in 2013 if possible.

#### Activities

- Obtain from the City, documentation outlining the City's annual capital expenditures budget for WTP improvements
- Based on annual capital expenditures budget for WTP improvements and OPCCs for each of the recommended improvements develop a draft CIP for the recommended WTP improvements and submit to the City for review and comment.
- Address City review comments on draft CIP plan.

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CITY OF TRINIDAD  
MR. JAMES  
FERNANDEZ

PROPOSAL TO  
PREPARE A WATER  
TREATMENT PLANT  
IMPROVEMENTS  
CONCEPTUAL DESIGN  
AND CAPITAL  
IMPROVEMENT PLAN

11 MARCH 2013

- Produce a WTP Improvement Implementation Plan document comprised of the following:
  - Applicable information from TMs describing each of the recommended improvements.
  - Tabular presentation of OPCC and present worth O&M cost for each of the recommended improvements.
  - Overall WTP improvements schedule and associated CIP.

**Deliverables**

- Electronic copy of draft and final TM.

**Information and Assistance Provided By City**

- Consolidated, written review comments on the draft TM.

**Fee Estimate**

We have estimated a fee of \$91,900 to complete the proposed Scope of Services. A spreadsheet showing the estimated fee for each task is enclosed for your review.

We look forward to the opportunity to work with you on the improvements to the WTP. If you have any questions or need additional information, please call.

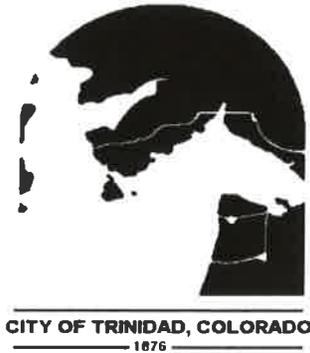
Very truly yours,  
BLACK & VEATCH

Kevin J. Meador, P.E.  
Project Manager

Enclosure

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## Council Communication

City Council Meeting: May 14, 2013 Work Session

Prepared: May 9, 2013

Dept. Head Signature: 

# of Attachments: Two (2);

Work Repair History

Preliminary Construction Cost Estimate

**SUBJECT:** Segundo Water Line Replacement Project

**Presenter:** Utility Superintendent, James Fernandez

**Recommended City Council Action:** Review and Schedule for Regular City Council Meeting

**Summary Statement:** The purpose of this project is to replace a segment of water line that serves a portion of the Segundo area on Highway 12. Attached is a history of the repair work performed on the existing pipeline.

**Expenditure Required:** Approximately \$180,000

**Source of Funds:** Water Department Reserve Fund

**Policy Issue:** N/A

**Alternative:** No action, continue to maintain deteriorated pipeline.

**Background Information:** The existing 2" diameter water line that serves a portion of Segundo is located directly in a driving lane of State Highway 12. CDOT has informed us that they plane to do an asphalt overlay in this area in the near future. It would be prudent to replace the existing line before the asphalt work begins. Our engineering department has created a set of plans and drawing for the pipeline replacement. Essentially, the existing 2" galvanized pipe will be replaced with a six inch (6") PVC (plastic) water main and the existing water taps and water service lines will be re-connected to the new pipeline. Several meetings were held with CDOT personnel to acquire their approval. Also attached is preliminary estimate of the cost to replace this pipeline. If City Council is agreeable, the project will be let to bid and bid results shall be submitted to City Council for review prior to award of any work.

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**City of Trinidad**  
 Office of Utilities Superintendent  
 P.O. Box 880  
 Trinidad, Colorado 81082  
 Telephone (719) 846-9843  
 Fax (719) 846-4140  
[www.jim.fernandez@trinidad.co.gov](http://www.jim.fernandez@trinidad.co.gov)

**PROJECT:**

Replace existing two inch (2") water Line in Segundo, on Highway 12 with new six inch (6") water main.

Date: April 23, 2013

**Repair History**

In the time period of 2002 thru 2012, the City water department responded to and repaired the ruptured 2" water line in Segundo, a total of thirteen (13) incidents. The cost of these repairs is itemized as follows:

Labor Cost @ Regular Time per 8 hour day:	\$170.12 per hour = \$1,360.96 per day
Labor Cost @ Over Time per 8 hour day:	\$255.18 per hour = \$2,041.44 per day
Labor Cost @ Double Time per 8 hour day:	\$320.24 per hour = \$2,721.92 per day

**Repair Incidents:**

	<b><u>Amount:</u></b>
Nine (9) Repairs @ Regular Time:	9 x \$1,360.96 = \$133,374.08
Two (2) Repairs @ Over Time:	2 x \$2,041.44 = \$4,082.88
Two (2) Repairs @ Double Time:	2 x \$2,721.92 = \$5,443.84
Sub Total:	<b>\$142,900.80</b>

**Asphalt Repair Work:**

(based on a 4' x 10' average size repair cut)	
Street & Bridge Charges @ \$60.00 per sq. yd.:	\$266.40 per patch (4.44 sq. yds.)
Water Dept. Labor:	\$320.52 per patch
Water Dept. Equipment:	\$580.00 per patch
Road Base (12 cu. Yds. @ \$7.73 / cu. Yd.	\$92.76 per patch
Thirteen Asphalt patches @	<b>\$1,259.68</b>
	<b>\$16,375.84</b>

**Water Line Repair Material:**

One (1) 2" Repair Clamp @ \$28.50 each x 13 repairs:	<b>\$370.50</b>
Total Cost of Repairs Over Ten (10) Year Period:	<b>\$159,647.14</b>

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Preliminary Cost Estimate of Proposed New Construction: (bids will be solicited upon approval of City Council). (See attached work sheet)	<b>\$175, 856.50</b>
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## COUNCIL COMMUNICATION

**CITY COUNCIL MEETING:** May 14, 2013  
**PREPARED BY:** Tom Acre, City Manager  
**DEPT. HEAD SIGNATURE:**   
**# OF ATTACHMENTS:**

**SUBJECT:** Consideration of an ordinance correcting errors and omissions within Section 12-12 of Article 2 of Chapter 12, of the Code of Ordinances of the City of Trinidad relating to the City's Electric Service, Power and Energy Rates

**PRESENTER:** Tom Acre, City Manager 

**RECOMMENDED CITY COUNCIL ACTION:** Consider putting forth the ordinance to correct the errors and omissions in the City's ordinance

**SUMMARY STATEMENT:** N/A

**EXPENDITURE REQUIRED:** No

**SOURCE OF FUNDS:** N/A

**POLICY ISSUE:** The ordinance as drafted at the recommendation of Phil Euler would require retroactive collection of the monthly charge to commercial customers back to February. Realizing Council may not want to collect retroactively to February he suggested May instead.

**ALTERNATIVE:** Council could opt to implement the increase in the monthly general service charge effective with the issuance of the July bills. In that instance, the last sentence in the ordinance would read "All corrections identified herein shall be reflected on utility bills issued on and after July 1, 2013," after final adoption of the ordinance.

### BACKGROUND INFORMATION:

- Phil Euler contacted the City by phone the week of April 15<sup>th</sup> and advised that errors and omissions were discovered within the ordinance he drafted for Council's approval in January, 2013, which was ultimately approved.
- Mr. Euler followed up with proposed changes to the ordinance (see e-mail attachments).
- The monthly charge to commercial customers is proposed to be increased by \$6.00 per month. He has indicated that it should have been the \$15.00 charge since January but there was the error in the ordinance. The street light kilowatt hour charge had been omitted in the approved ordinance, but has been collected at the same rate being proposed.
- The current number of commercial customers this would affect is 666.
- The actual cost of service for general service is \$18.43. Mr. Euler is gradually trying to get the monthly charge to that number.

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CITY OF TRINIDAD, COLORADO

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE CORRECTING ERRORS AND OMISSIONS WITHIN SECTION 12-12 OF ARTICLE 2 OF CHAPTER 12, OF THE CODE OF ORDINANCES OF THE CITY OF TRINIDAD RELATING TO THE CITY'S ELECTRIC SERVICE, POWER AND ENERGY RATES

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

The Code of Ordinances of the City of Trinidad, Colorado, Section 12-12(3)(c) General Electric Service, is corrected as follows:

(3) GENERAL ELECTRIC SERVICE:

(c) Monthly Rate: The established rate for electric service, power, and energy delivered shall be as follows, and shall be reflected on utility bills issued on and after June 1<sup>st</sup> through the last day of September for Summer rates and on and after October 1<sup>st</sup> through the last day of May for Winter rates:

	Summer (June-September)	Winter (Oct-May)
Monthly Charge:	\$15.00	\$15.00
First 500 KWH	\$0.1590/KWH	\$0.1590/KWH
Next 1,000 KWH	\$0.1590/KWH	\$0.1390/KWH
Over 1,500 KWH	\$0.1590/KWH	\$0.1190/KWH

The Code of Ordinances of the City of Trinidad, Colorado, Section 12-12(6)(c) Street Lighting, is corrected as follows:

(6) STREET LIGHTING:

(c) Monthly Rate:

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Lamp Charge	\$/mo.
175 W MV	12.65
200 W MV	13.65
400 W MV	26.62
100 W HPS	8.16
150 W HPS	12.24
200 W HPS	17.34
250 W HPS	17.34
400 W HPS	26.52
165 W INDUCT	12.65
70 W MH	12.65
65 W INDUCT	12.65

Energy: All KWH \$0.1555/KWH

All corrections identified herein shall be effective retroactively to February 1, 2013, and shall be reflected on utility bills issued on and after July 1, 2013.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED  
 PUBLISHED this \_\_\_\_ day of \_\_\_\_\_, 2013.

FINALLY PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2013.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
 BERNADETTE BACA GONZALEZ,  
 Mayor

ATTEST:

\_\_\_\_\_  
 AUDRA GARRETT, City Clerk

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ORDINANCE NO.

AN ORDINANCE REPEALING AND RE-ENACTING § 12-12 OF ARTICLE 2 OF CHAPTER 12 OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSE CORRECTING ERRORS AND OMISSIONS OF RESTRUCTURING RATES FOR ELECTRIC SERVICE, POWER, AND ENERGY

WHEREAS, Chapter XI, Section 11.1, of the Charter of the City of Trinidad, Colorado, confers upon the City Council "all municipal powers relating to all utilities and franchises including, but without limitation to, all powers and authority now existing and which may be hereafter provided by the Constitution or Statutes of the State of Colorado, or by ordinance or by this Charter."; and

WHEREAS, the City Council has caused an electric rate study to be conducted to determine if the rates charged to its customers for service, power, and energy will sustain the City's Power and Light Fund and ensure its solvency; and

WHEREAS, the City Council hereby finds and declares that amendments to the electric service, power, and energy rates are necessary to ensure both the solvency of the City's Power and Light Fund and the long-term provision of electric service, power, and energy to the City's inhabitants.

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

1. **Repeal and Re-Enactment.** Section 12-12 of Article 2 of Chapter 12 of the Code of the City of Trinidad, Colorado, is hereby repealed in its entirety and re-enacted as follows:

**Section 12-12. Rates for Electric Service, Power, and Energy.**

**Effective February 1, 2013**, the established rate for electric service, power, and energy delivered shall be as follows, and shall be reflected on utility bills issued on and after February 1, 2013:

(1) RESIDENTIAL ELECTRIC SERVICE:

(a) **Applicability:** Available for single-family units and individually metered multi-family units within the utility's service area for the purpose of lighting, cooking, household appliances, and space heating. Single-family units and individually metered multi-family units shall be considered as buildings or units used solely as residences. Residences used for commercial purposes shall be billed at the commercial rate, unless the residential and commercial services are arranged to allow separate metering of the residential portion.

(b) **Character of service:** Alternating current, 60Hz, single-phase, 120/240 volts.

(c) <b>Monthly Rate:</b>	<b>Summer</b>	<b>Winter</b>
	<b>(June-September)</b>	<b>(Oct-May)</b>
Monthly Charge:	\$9.00	\$9.00
First 600 KWH	\$0.1500/KWH	\$0.1500/KWH
Over 600 KWH	\$0.1500/KWH	\$0.1200/KWH

(d) **Power Cost Adjustment ("PCA"):** When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

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(e) Tax Adjustment: All rates are net and subject to applicable taxes.

(f) Multi-family Dwelling Units: Where two or more dwelling units are served through one meter, this rate shall apply by multiplying the above KWH blocks of the rate and the minimum charge by the number of dwelling units so served.

(2) ELECTRIC WATER HEATER SERVICE:

(a) Applicability: Available for individual permanently installed storage type electric water heaters of thirty (30) gallons or more capacity and of a type approved by the utility. Service hereunder shall be supplied through a separate meter. Each element within the water heater will be non-inductive and controlled by a separate thermostat. The upper thermostat and element will be interconnected with the lower thermostat and element to permit operation of only one element at any time.

(b) Character of service: Alternating current, 60HZ, single-phase, 240 volt.

(c) Monthly Rate:

	Summer (June-September)	Winter (Oct-May)
Monthly Charge:	\$3.00	\$3.00
All KWH	\$0.1530/KWH	\$0.1130/KWH

(d) Power Cost Adjustment ("PCA"): When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

(e) Tax Adjustment: All charges are net and subject to applicable taxes.

(3) GENERAL ELECTRIC SERVICE:

(a) Applicability: Available for commercial and non-residential customers for lighting and other electric services where the service is taken through one meter and does not require in excess of 50 KVA of transformer capacity.

(b) Character of Service: Alternating current, 60Hz, single-phase, 120 volts or 120/240 volts; three-phase, three-wire, 240 volts; three-phase, four-wire, 120/208 volts.

(c) Monthly Rate:

	Summer (June-September)	Winter (Oct-May)
Monthly Charge:	\$915.00	\$915.00
First 500 KWH	\$0.1590/KWH	\$0.1590/KWH
Next 1,000 KWH	\$0.1590/KWH	\$0.1390/KWH
Over 1,500 KWH	\$0.1590/KWH	\$0.1190/KWH

5-5

(d) Power Cost Adjustment ("PCA"): When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

(e) Tax Adjustment: All charges are net and subject to applicable taxes.

(f) Multiple Meters: All metering points shall be billed as separate customers.

(4) LARGE LIGHT AND POWER:

(a) Applicability: Available for commercial and industrial customers using electricity for lighting and power purposes through one point.

(b) Character of Service: Alternating current, 60Hz, single-phase, 120 volts or 120/240 volts; three-phase, three-wire, 240 volts; three-phase, four-wire, 120/208 volts; or at available distribution voltages.

(c) Minimum Charge: Demand charge, but not less than eighty percent (80%) of the highest demand of the preceding eleven (11) months or 50 KW, whichever is higher.

(d) Monthly Rate:

	Summer (June-September)	Winter (Oct-May)
Monthly Charge:	\$25.00	\$25.00
Energy:		
First 10,000 KWH	\$0.1231/KWH	\$0.1231/KWH
Next 20,000 KWH	\$0.1231/KWH	\$0.1131/KWH
Over 30,000 KWH	\$0.1231/KWH	\$0.1131/KWH
Demand (30 minute integrated):		
All KW	\$10.00/KW	\$ 7.00/KW

(e) Multiple Meters: All metering points shall be billed as separate customers.

(f) Primary Metering Discount: When service is taken at distribution voltage, without transformation, a three percent (3%) discount will be allowed in both the energy and demand measurements.

(g) Power Cost Adjustment ("PCA"): When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

(h) Tax Adjustment: All charges are net and subject to applicable taxes.

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(5) SECURITY LIGHTING:

(a) Applicability: Available for area lighting, in private areas and grounds, for protective and safety purposes only, where the City installs high-pressure sodium ("HPS") type lighting fixtures in sizes determined by the City as appropriate for the area to be lit.

(b) Character of Service: Dusk-to-dawn operation of utility owned HPS fixtures.

(c) Installation Fees: A non-refundable fee for the installation of utility supplied poles shall be Sixty Dollars (\$60.00). The amount necessary for the costs of the wire, connections, and hardware will be calculated and added to the non-refundable fees set forth above.

(d) Monthly Rate:

Lamp Charge	\$/mo.	PCA kWh
175 W MV	14.00	67
200 W MV	15.10	76
400 W MV	29.40	153
100 W HPS	9.00	38
150 W HPS	13.50	58
200 W HPS	19.10	77
250 W HPS	19.10	96
400 W HPS	29.30	153

(e) Power Cost Adjustment ("PCA"): When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

(f) Tax Adjustment: All charges are net and subject to applicable taxes.

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(6) STREET LIGHTING:

(a) Applicability: Available for municipal, county, and state street lighting on public roads, streets, and other public areas and grounds, for protective and safety purposes only.

(b) Character of Service: Dusk-to-dawn operation of government agency specified street lamps and poles that are utility installed, owned, and operated.

(c) Monthly Rate:

Lamp Charge	\$/mo.
175 W MV	12.65
200 W MV	13.65
400 W MV	26.62
100 W HPS	8.16
150 W HPS	12.24
200 W HPS	17.34
250 W HPS	17.34
400 W HPS	26.52
165 W INDUCT	12.65
70 W MH	12.65
65 W INDUCT	12.65

Energy: All KWH

\$0.1555/KWH

Formatted: Indent: Left: 0"

(d) Power Cost Adjustment ("PCA"): When applicable, a power cost adjustment ("PCA"), as specified in subsection (7) herein, shall be applied to all kilowatt hours billed for the current month.

(e) Tax Adjustment: All charges are net and subject to applicable taxes.

(7) POWER COST ADJUSTMENT ("PCA"):

(a) Any bill may be adjusted for variations in the cost of power to the utility. Such power cost adjustments ("PCAs") may be recommended from time to time by utility staff and may be authorized by the City Council. The City Council may authorize a PCA in the event that significant revenue changes are necessary because of unexpected increases in the cost of power, including energy and demand costs, or because of other emergencies that are estimated to be greater than a ten percent (10%) deviation in fiscal year power costs budgeted.

(b) A PCA shall be calculated as follows:

$$PCA = (A - 0.1033)(KWH \text{ billed during the preceding month}) + B$$

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KWH sold during the preceding month

where "A" equals the energy cost per kilowatt hour ("KWH") billed during the preceding month by the Arkansas River Power Authority, and "B" equals any energy cost adjustment billed during the preceding month by the Arkansas River Power Authority.

(c) If authorized by the City Council, a PCA shall be effective for a period not to exceed twelve (12) months. After such period, the PCA shall automatically expire unless re-authorized by the City Council. When applicable, a PCA shall be applied to all kilowatt hours billed in the current month.

2. **Authorization of Power Cost Adjustment ("PCA").** The City Council hereby does not authorize a power cost adjustment ("PCA"), as set forth in § 12-12(7)(b) of the Code of the City of Trinidad, Colorado. If the Council does authorize a PCA it shall set it for a twelve (12) month period.

3. **Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_, READ AND ORDERED PUBLISHED  
this \_\_\_\_ day of January, 2013.

FINALLY PASSED AND APPROVED this \_\_\_\_ day of ~~January~~May, 2013.

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the 1st day of ~~February~~May, 2013.

\_\_\_\_\_  
BERNADETTE BACA-GONZALEZ, MAYOR

ATTEST:

\_\_\_\_\_  
AUDRA GARRETT, CITY CLERK

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**Audra Garrett**

**From:** Phil Euler [peuler@nmppenergy.org]  
**Sent:** Friday, May 10, 2013 12:27 PM  
**To:** 'Audra Garrett'  
**Cc:** 'Tom Acre'  
**Subject:** RE: Trinidad Electric ordinance change

Audra, Thanks for the email and talking with me about the GS Customer Charge. Below is a Table that shows the COS elements for Customer Related Costs is \$18.43 and this rate increase to \$15 is a transition towards that level.

**Annual GS**

**COS Element**

18.43 Customer

Typically GS Customer related costs range from \$15- to \$20 /month. The \$9.00 was an error in typing the Ordinance (apparently a carryover from the residential proposed \$9.00) .

The rate proposed to the council in the in the trial rates sent on January 14, 2013 was \$15 / month for the GS class (see below):

**Appendix Table B-3  
Typical Bill Comparison  
Existing vs. Proposed Rates  
General Electric Service**

Line	Summer Rates					Winter Rates			
	Existing		Proposed			Existing		Proposed	
1	Minimum Bill		\$ 13.00	Minimum Bill	\$ 15.00	10.4%	Minimum Bill	\$ 13.00	Minimum
2	Customer Charge		\$ 13.00	Customer Charge	\$ 15.00	15.4%	Customer Charge	\$ 13.00	Customer
3	PCA	\$/kWh	0.0222	cts/kWh	PCA	0.0000	cts/kWh	PCA	0.0222
4	Energy			Energy				Energy	CAA Rate
5	First	500 kWh	13.31	500 kWh	15.90	19.5%	First	500 kWh	13.31
6	Next	1,000 kWh	14.67	1,000 kWh	15.90	8.8%	Next	1,000 kWh	14.67
7	Next	- kWh	-	- kWh	-	21.0%	Next	- kWh	-
8	Next	- kWh	-	- kWh	-	21.0%	Next	- kWh	-
9	Excess		12.00		15.90	32.5%	Excess		12.00

I contend that the intent of the Council was for the charge to be \$15 as recommend and the customers where not billed accordingly and a billing correction should be made.

If the error had been an overcharge of what was intended the customers certainly would expect the City to refund to the correct amount. The same should apply here.

Let me know if you have other questions.

*Phil Euler, PC*

Manager, Planning and Engineering Services – MEAN  
NMPP Energy  
8377 Glynoaks Dr  
Lincoln, NE 68516  
Phone: 402.474.4759  
Fax: 402.474.0473  
Mobile: 402.440.1306  
mailto:peuler@nmppenergy.org  
www.nmppenergy.org

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**Appendix Table B-3  
Typical Bill Comparison  
Existing vs. Proposed Rates  
General Electric Service**

Line	Summer Rates			Winter Rates		
	Existing	Proposed		Existing	Proposed	
1	Minimum Bill	\$ 13.00	Minimum Bill	\$ 13.00	Minimum Bill	\$ 15.00
2	Customer Charge	\$ 13.00	Customer Charge	\$ 13.00	Customer Charge	\$ 15.00
3	PCA	0.0222	PCA	0.0222	PCA	0.0000
4	Energy		Energy		Energy	
5	First	500 kWh	First	500 kWh	First	500 kWh
6	Next	1,000 kWh	Next	1,000 kWh	Next	1,000 kWh
7	Next	- kWh	Next	- kWh	Next	- kWh
8	Next	- kWh	Next	- kWh	Next	- kWh
9	Excess	12.00	Excess	12.00	Excess	11.90

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**From:** Audra Garrett [mailto:audra.garrett@trinidad.co.gov]  
**Sent:** Thursday, May 09, 2013 4:08 PM  
**To:** 'Phil Euler'  
**Cc:** 'Tom Acre'  
**Subject:** RE: Trinidad Electric ordinance change

Phil,  
Staff is remembering specifically asking you about the reduction to the commercial customers in that monthly charge in a previous conversation at the time you all were discussing the PCA not being included in the rates. Why the change of heart? I thought we were trying to reduce the cost to commercial customers because they were taking the hit, so we were increasing residential rates and ratcheting down commercial some. Please advise before we take this to Council Tuesday. Also, please provide another revenue pro forma showing the variance between the \$9 and \$15.

*Audra Garrett, City Clerk*  
*City of Trinidad*  
*135 N. Animas Street*  
*Trinidad, CO 81082*  
*(719) 846-9843 ext. 135*  
*(719) 846-4140 fax*  
*[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)*



---

**From:** Phil Euler [mailto:peuler@nmppenergy.org]  
**Sent:** Monday, April 29, 2013 12:17 PM  
**To:** 'Audra Garrett'  
**Cc:** [tom.acre@trinidad.co.gov](mailto:tom.acre@trinidad.co.gov); Thanh Le; Brenda Hering; Beth Ackland; Andrew Ross  
**Subject:** RE: Trinidad Electric ordinance change

Audra and Tom, Brenda tells me I attached the wrong file. Attached is the correct one.  
Sorry for any inconvenience.

---

**From:** Phil Euler [mailto:peuler@nmppenergy.org]  
**Sent:** Sunday, April 28, 2013 7:24 AM  
**To:** Audra Garrett  
**Cc:** [tom.acre@trinidad.co.gov](mailto:tom.acre@trinidad.co.gov); THANH LE ([tle@nmppenergy.org](mailto:tle@nmppenergy.org)); Brenda Hering ([bhering@nmppenergy.org](mailto:bhering@nmppenergy.org)); Beth Ackland ([backland@NMPPENERGY.ORG](mailto:backland@NMPPENERGY.ORG)); 'Andrew Ross' ([aross@nmppenergy.org](mailto:aross@nmppenergy.org))  
**Subject:** RE: Trinidad Electric ordinance change

Audra, Attached is another re-line version with the Header Changed to indicate the reason for the removal of the current and substituting a new Ordinance is for 'correctrion and omission of charges' needed. I think this is the cleanest way to get it done and complete the record of events.

I suggest that the billing of GS customer charges be retroactive to February. However, the Council may not want to do this and make the Ordinance effective May 1. Please have the City Attorney review the language and consider giving the Council the red-line for review but print the document with all changes accepted for approval.

Please call if you have questions.

***Phil Euler, PE***

Manager, Engineering Services – NMPP  
NMPP Energy  
8377 Glynoaks Drive  
Lincoln, NE 68509-5124  
Phone: 402.474.4759  
Fax: 402.474.0473  
Mobile: 402.440.1306  
<mailto:peuler@nmppenergy.org>  
[www.nmppenergy.org](http://www.nmppenergy.org)

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**From:** Audra Garrett [<mailto:audra.garrett@trinidad.co.gov>]  
**Sent:** Friday, April 26, 2013 11:40 AM  
**To:** 'Phil Euler'  
**Subject:** ordinance change

Hi Phil,  
Just following up on the draft ordinance language you were going to sent us. When might we expect it?

*Audra Garrett, City Clerk  
City of Trinidad  
135 N. Animas Street  
Trinidad, CO 81082  
(719) 846-9843 ext. 135  
(719) 846-4140 fax  
[audra.garrett@trinidad.co.gov](mailto:audra.garrett@trinidad.co.gov)*



Information from ESET NOD32 Antivirus, version of virus signature database 8271 (20130426)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

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**Appendix Table B-2  
Typical Bill Comparison  
Existing vs. Proposed Rates  
General Electric Service**

Line	Summer Rates			
	Existing		Proposed	
1	Minimum Bill	\$ 13.00	Minimum Bill	\$ 15.00
2	Customer Charge	\$ 13.00	Customer Charge	\$ 15.00
3	PCA	\$/kWh 0.0222 cts/kWh	PCA	0.0000 cts/kWh
4	Energy		Energy	
5	First	500 kWh 13.31	500 kWh	15.90
6	Next	1,000 kWh 14.67	1,000 kWh	15.90
7	Next	- kWh -	- kWh	-
8	Next	- kWh -	- kWh	-
9	Excess	12.00		15.90

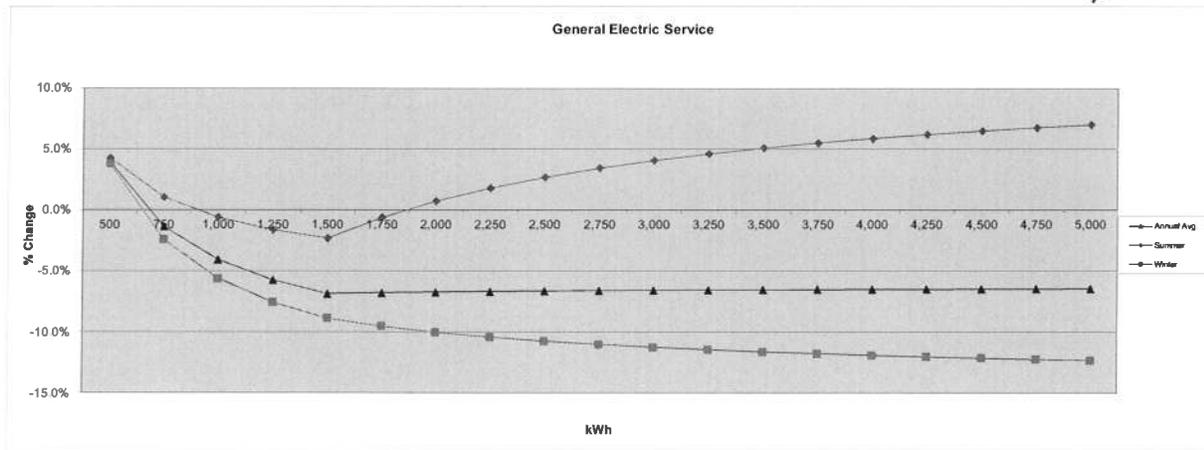
Line	Winter Rates			
	Existing		Proposed	
1	Minimum Bill	\$ 13.00	Minimum Bill	\$ 15.00
2	Customer Charge	\$ 13.00	Customer Charge	\$ 15.00
3	PCA	\$/kWh 0.0222 cts/kWh	PCA	0.0222 cts/kWh
4	Energy		Energy	
5	First	500 kWh 13.31	500 kWh	15.90
6	Next	1,000 kWh 14.67	1,000 kWh	13.90
7	Next	- kWh -	- kWh	-
8	Next	- kWh -	- kWh	-
9	Excess	12.00		11.90

Existing Rate Revenue	\$ 1,728,111
Proposed Rate Revenue	\$ 1,690,052
Rate Increase / Decrease	-2.2%

Line	Monthly Usage (kWh)	Summer Monthly Bill		% Inc. / (Dec.)
		Existing	Proposed	
10	500	\$ 90.63	\$ 94.50	4.3%
11	1500	\$ 259.50	\$ 253.50	-2.3%
12	2500	\$ 401.67	\$ 412.50	2.7%

Line	Monthly Usage (kWh)	Winter Monthly Bill		% Inc. / (Dec.)
		Existing	Proposed	
10	500	\$ 101.72	\$ 105.58	3.8%
11	1500	\$ 292.75	\$ 266.75	-8.9%
12	2500	\$ 457.08	\$ 407.92	-10.8%

Line	Annual Average Monthly Bill		% Inc. / (Dec.)	\$ Inc. / (Dec.)
	Existing	Proposed		
10	\$ 98.02	\$ 101.89	3.9%	\$ 3.87
11	\$ 281.67	\$ 262.33	-6.9%	\$ (19.33)
12	\$ 438.61	\$ 409.44	-6.6%	\$ (29.17)





## COUNCIL COMMUNICATION

CITY COUNCIL WORK SESSION: May 14, 2013

PREPARED

BY:

Chris Kelley

DEPT. HEAD SIGNATURE:

ATTACHMENTS:

1

**SUBJECT:** Update and discussion regarding proposed changes to Chapter 5 of the Code of Ordinances Buildings.

**PRESENTER:** Chris Kelley, Chief Building Official and Les Downs, City Attorney

**RECOMMENDED CITY COUNCIL ACTION:** This item is for discussion at this time, no formal action is required by City Council.

**SUMMARY STATEMENT:** Staff is proposing changes to Chapter 5 – Buildings in the City’s Code of Ordinances to increase the ability for the City to bring enforcement action if buildings are vacant and deteriorating and add some flexibility to certain aspects of the Building Code. Please note the following revisions:

Article 1, Sections 5-1 to 5-6 as well as 5-8, 5-13  
Article 2, Sections 16-21  
Article 3  
Article 4

**EXPENDITURE REQUIRED:** None at this time.

**SOURCE OF FUNDS:** N/A

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

**ALTERNATIVE:** Building codes and processes related to vacant buildings could remain as is.

### BACKGROUND INFORMATION:

In March, staff provided City Council with information regarding the current building ordinance and information on the International Code Council property maintenance code and municipal code. At the Work Session, City Council and staff had initial discussion regarding changes that the City should consider to improve how the City’s ordinances and building codes and how we can increase code compliance and encourage building owners to make the necessary improvements to the buildings to remedy continued deterioration and any life safety issues.

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## **CHAPTER 5. BUILDINGS.**

### **ARTICLE 1. INTERNATIONAL BUILDING CODES.<sup>1</sup>**

Sections:

- 5-1 In General
- 5-2 Abatement of Unsanitary or Dangerous Premises
- 5-3 Building Maintenance
- 5-4 Exterior Property Maintenance
- 5-5 Notice and Order Procedure
- 5-6 Stop Work Order Procedure
- 5-7 International Building Code.
- 5-8 International Residential Code.<sup>2</sup>
- 5-9 International Plumbing Code.
- 5-10 International Mechanical Code.
- 5-11 International Fuel Gas Code.
- 5-12 International Energy Conservation Code.
- 5-13 International Existing Building Code.
- 5-14 International Property Maintenance Code.
- 5-15 International Private Sewage Disposal Code.

### **ARTICLE 2. CONTRACTOR LICENSING.**

- 5-16 Definitions, Classifications and Fees
- 5-17 Testing
- 5-18 Insurance Requirements
- 5-19 Duties and Responsibilities of Licensee
- 5-20 Suspension and Revocation of License
- 5-21 Application Form and Contents

### **ARTICLE 3. NON-CONFORMING USE.**

- 5-22 Non Conforming Use

### **ARTICLE 4. BOARD OF APPEALS.**

- 5-23 Board of Appeals and Means of Appeal.
- 5-24 Variance Petition

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# CHAPTER 5. BUILDINGS.

## ARTICLE 1. IN GENERAL.

### Section 5-1. In General

(1) Entity charged with code administration department having jurisdiction or similar words shall be the Chief Building Official (CBO) who shall be ICC certified. The CBO, appointed by the City Manager, is charged with the direct overall administration and enforcement of this code; and, in the performance of said duties, may delegate the necessary authority to the appropriate technical, administrative and compliance staff under the supervision of the building official.

(2) Authority of the Chief Building Official.

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

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

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

In example:

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

(4) **Inspections.**

(a) *Generally.* When necessary to make an inspection to enforce any provisions of this Code, or when the city has reason to believe there exists in any building or upon any land any condition that constitutes a violation of this Code, an authorized

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city employee or agent may present proper credentials and request entry. If entry is refused or if the owner cannot be located after reasonable effort, the city shall give the owner or, if the owner cannot be located, leave at the building or premises, a written notice of the city's intent to inspect the property. The notice shall set forth the time, not sooner than twenty-four (24) hours after the notice of intent to inspect is given or left, at which the city will return for inspection. The notice shall state that the owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a municipal judge of the city, or by a judge of any other court having jurisdiction.

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

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

(5) **Violations.**

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

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

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

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shall be charged against the real estate upon which the structure is located and/or a judgment shall be filed against the owner of record.

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

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

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

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

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

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

If the owner, agent or occupant of the premises shall fail or refuse to comply with the order of any of the officers within the time given in the order, then the matter of the failure or refusal to comply with the order shall be heard before the next meeting of the City Council without further notice to the owner, agent or occupant of the premises. At the meeting, the owner, agent or occupant of the premises or any other person interested may appear and be heard.

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After the hearing, the City Council shall make such order concerning remedying the condition complained of as may be deemed necessary and may declare the premises to be a nuisance and cause the premises to be remedied, repaired, abated or evacuated and shall assess the expense against the lot or premises upon which the condition or nuisance may be found as provided by law.

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

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

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

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

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

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

### **Section 5-3 Building Maintenance**

(1) **Nuisance declared and prohibited.** No owner or occupant of any real property within the City shall permit the maintenance or existence on such property of defective roofs, windows and decorative facades as said conditions are more particularly addressed and regulated by

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provisions of this Article, and such conditions are hereby declared to be a nuisance and a menace to the public welfare. This declaration of nuisance and prohibition shall apply to all locations.

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

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

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

(a) Whenever, in this Code or in any ordinance of the City, or rule, regulation or order promulgated by any law officer or agency of the City under authority duly vested in him/her or it, any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance or any rule, regulation or order as aforesaid shall be punished by a fine not exceeding Three Hundred Dollars (\$300.00) or by imprisonment in the City Jail or other place of legal incarceration for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

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

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

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

#### **Section 5-4 Exterior Property Maintenance**

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

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containing one (1) or more buildings which, if newly constructed, would require a certificate of occupancy under this Code.

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

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

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

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

#### **Section 5-5 Notice and Order Procedure**

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

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

(i) The owner of record may appeal from this notice and order to the Board of Appeals at the City of Trinidad, provided the appeal is made in writing and filed with the Building Official within 20 days from the date of service of this notice and order. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(ii) Failure to appeal and/or lack of response i.e. non-delivery/acceptance of

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notice, no communication written or verbal will constitute a waiver of all right to an administrative hearing and determination of the matter. (Section 111.1)

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

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

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

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

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

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

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

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

#### **Section 5-6. Stop Work Order Procedure.**

- (1) **Authority.** Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.
- (2) **Issuance.** A stop work order shall be posted on the property in question. Upon issuance of a stop work order, the posted work shall stop immediately. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume. Before resuming any work the code official must be notified.
- (3) **Placard removal.** The code official shall remove the stop work placard whenever the defect or defects upon which the posting were based have been eliminated. Any person who defaces or removed a stop work order placard without the approval of the code official shall be subject to the penalties provided by this code.
- (4) **Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine or not less than two hundred fifty dollars (\$250.00) or more than one thousand dollars (\$1,000.00)

#### **Section 5-7. International Building Code.**

- (1) The *International Building Code*, 2009 Edition, including Appendix Chapter J (“Grading”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Building Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Building Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.
- (2) The following sections of the *International Building Code*, 2009 Edition (“IBC”), are hereby revised:
  - (a) Amend **IBC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.
  - (b) Amend **IBC § 109.2, Schedule of permit fees**, as follows: insert the following Schedule of Permit Fees:

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**Schedule of Permit Fees**

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

**Other Inspections and Fees:**

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

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

\*\* Actual costs include administrative and overhead costs.

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

(c) Amend **IBC § 114.4, Violation penalties**, to read: Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters, or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(d) Amend **IBC § 115.3, Unlawful continuance**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be

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liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

#### **Section 5-8. International Residential Code.**

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

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

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

(b) Amend **IRC § R108.2, Schedule of permit fees**, as follows: **See Building Permit Fees Section 5-6(b). (deleted table)**

(c) Amend **IRC § R113.4, Violation penalties**, to read: Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters, or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(d) Amend **IRC § R114.2, Unlawful continuance**, to read: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

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

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

**TABLE R302.1  
EXTERIOR WALLS**

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

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

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

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

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

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

(i) Amend **IRC § R313.1, Townhouse automatic fire sprinkler systems**, to read: Effective January 1, 2014, an automatic residential fire sprinkler system shall be installed in *townhouses*.

(j) Amend **IRC § R313.2, One- and two-family dwellings automatic fire systems**, to read: Effective January 1, 2014, an automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

(k) Amend **IRC § R315.1, Carbon monoxide alarms**, to read: For new construction, an approved carbon monoxide alarm shall be installed within fifteen feet (15') of the entrance to each bedroom in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.

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

**Exception:** Work involving the exterior surfaces of dwelling units, such as the replacement of roofing or siding, or the addition of a porch or deck, is exempt from the requirements of this Section. (Amended Ord. No. 1917, 7-15-11)

(m) Delete **IRC Chapter 11**, entitled “**ENERGY EFFICIENCY**,” in its entirety. Please refer to the International Energy Conservation Code, adopted in Section 5-6 of this Article, for energy conservation requirements.

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

#### **Section 5-9. International Plumbing Code.**

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

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

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

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

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

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

(e) Amend **IPC § 108.4, Violation penalties**, to read: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair plumbing work in violation of the *approved* construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(f) Amend **IPC § 108.5, Stop work orders**, to read: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner’s agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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- (h) Delete **IPC §§ 109.2 through 109.6**, regarding membership and procedures of the board of appeals.
- (i) Amend **IPC § 305.6.1, Sewer depth**, as follows: insert “thirty-two (32)” in two locations.
- (j) Amend **IPC § 904.1, Roof extension**, as follows: insert “six (6)” where indicated.

**Section 5-10. International Mechanical Code.**

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

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

- (a) Amend **IMC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.
- (b) Amend **IMC § 106.5.2, Fee schedule**, as follows: insert the following fee schedule:

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

- (c) Amend **IMC § 106.5.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.
- (d) Amend **IMC § 108.4, Violation penalties**, to read: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate

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issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(e) Amend **IMC § 108.5, Stop work orders**, to read: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

#### **Section 5-11. International Fuel Gas Code.**

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

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

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

(b) Amend **IFGC § 106.1, Where required**, to read: An owner, authorized agent, or contractor who desires to erect, install, enlarge, alter, repair, remove, convert, or replace an installation regulated by this code, or to cause such work to be done, shall first make

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application to the code official and obtain the required permit for the work; provided, however, that such a permit shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing fuel gas inspections.

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

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

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

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

(e) Amend **IFGC § 108.4, Violation penalties**, to read: Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the *approved construction documents* or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(f) Amend **IFGC § 108.5, Stop work orders**, to read: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner's agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

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

#### **Section 5-12. International Energy Conservation Code.**

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

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

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

(b) Amend **IECC § 108.4, Failure to comply**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

#### **Section 5-13. International Existing Building Code.**

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

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

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

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(b) Amend **IEBC § 1301.2, Applicability**, as follows: insert “January 1, 2010” as the specified date.

(c) Amend **IEBC § 113.4, Violation penalties**, to read: Any person who violates a provision of this code or who fails to comply with any of the requirements thereof, or who *repairs*, alters, or changes the occupancy of building or structure in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(d) Amend **IEBC § 114.3, Unlawful continuance**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

(3) **Phased Construction (only for existing and historic structures within the city limits).**

(a) A Colorado licensed design professional will do an assessment of the building or structure which will be provided to the Building Official for review to ascertain that it meets the intent of the adopted codes.

(b) A building may use a Phase approach to remodel project only if complete, stamped plans including intended occupancy are provided to the Building Official.

(i) **Use and Occupancy Classification.** Intended occupancy must be submitted for review to the Building Official. If any owner cannot decide on intended occupancy, then the building shall be Type 1 construction throughout.

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

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

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

**Section 5-14. International Property Maintenance Code.**

(1) The *International Property Maintenance Code*, 2009 Edition, including Appendix Chapter A (“Boarding Standard”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Property Maintenance Code of the City of Trinidad, Colorado, as if fully set

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forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Property Maintenance Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

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

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

(b) Amend **IPMC § 103.5, Fees**, as follows: See **Building Permit Fees Section 5-6(b)**. (deleted table)

(c) Amend **IPMC § 106.4, Violation penalties**, to read: Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

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

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

(f) Amend **IPMC § 112.4, Failure to comply**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

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

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

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**Section 5-15. International Private Sewage Disposal Code.**

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

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

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

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

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

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

(d) Amend **IPSDC § 108.4, Violation penalties**, to read: Any person who shall violate a provision of this code or fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair private sewage disposal work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in §§ 1-8 and 1-9 of the Code of the City of Trinidad, Colorado.

(e) Amend **IPSDC § 108.5, Stop work orders**, to read: Upon notice from the code official, work on any *private sewage disposal system* that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, to the owner’s agent, or to the person doing the work. The notice shall state the conditions under which

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work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

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

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

## **ARTICLE 2. CONTRACTOR LICENSING.**

### **Section 5-16 Definitions, Classifications and Fees.**

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

(2) **Classification.**

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

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

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

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

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

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

(3) **Fees.** Contractor's licenses shall be issued for a calendar year. The annual license fee shall be as stated below unless amended by resolution of the City Council in accordance with the licensing classifications as set forth above [Section 5-15(2)]. In addition to the application fee, there is a processing fee for new applicants in the amount of \$25.00.

- (a) Contractor A - \$200.00
- (b) Contractor B - \$175.00
- (c) Contractor C - \$150.00
- (d) Contractor D - \$125.00 for each license type i.e. roofing and stucco = \$250.00
- (e) License fees are not refundable. Any fee paid under this Section shall not be refunded for any reason after the license has been issued.

**Section 5-17 Testing.**

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

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

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

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### **Section 5-18 Insurance Requirements**

- (1) Every contractor shall procure workers' compensation coverage as required by state law and general liability coverage with the following minimum limits:
  - (a) General Aggregate: two million dollars (\$2,000,000.00).
  - (b) Products, completed operations: two million dollars (\$2,000,000.00).
  - (c) Personal and advertising injury: one million dollars (\$1,000,000.00).
  - (d) Each occurrence: one million dollars one million dollars (\$1,000,000.00).
- (2) No contractor's license shall be issued under this Article until the following documents are filed with the Chief Building Official:
  - (a) A statement or certificate signed by an authorized agent of an insurance company licensed to do business in the State, stating that a policy or policies have been issued to the applicant with the coverage amounts set forth in Subsection (1) hereof, and including the effective date and expiration date of the policy or policies; and
  - (b) A copy of an endorsement to the policy requiring at least ten (10) days' prior written notice to the Chief Building Official of cancellation of the policy for any reason.
- (3) In the event of cancellation of any policy required by this Section, the Chief Building Official shall immediately suspend the contractor's license. The license shall be reinstated when the licensee furnished the documentation required by Subsection (2) hereof.

### **Section 5-19 Duties and Responsibilities of Licensee**

- (1) All licensees under this Article shall be responsible for the following:
  - (a) All work covered by his/her permit, whether or not such work is done directly by the licensee or his/her employees or subcontractors. Subcontractors are required to be licensed with the City even if they are working under the supervision of a licensed contractor.
  - (b) All funds or property received by him/her for prosecution or completion of a specific contract or for a specific purpose.
  - (c) Obtaining any required permits for himself/herself and any subcontractor under his/her supervision.
  - (d) Safety measures and equipment to protect workers and the public in compliance with applicable federal and state laws.

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- (e) Compliance with all applicable City ordinances, codes and regulations.
- (f) Constructing any building or structure in substantial compliance with the drawings and specifications approved by the Chief Building Official and the permit issued for the same, unless changes are approved by the Chief Building Official.
- (g) Completing all work authorized by the permit unless there is good cause for the non-completion of the work.
- (h) Obtaining inspection services where required by this Chapter and any technical code.
- (i) Paying any fee assessed under the authority of this Code or any technical codes.
- (j) Obeying any order or notice issued pursuant to this Code or any technical code.
- (k) Presenting his/her license when requested by the Chief Building Official.
- (l) Maintaining workers' compensation and liability insurance as required by Section 5-17.

#### **Section 5-20 Suspension and Revocation of License**

- (1) The Chief Building Official may suspend or revoke a license for any of the following:
  - (a) Failure to comply with any of the duties and responsibilities set forth in Section 5-18.
  - (b) Knowingly permitting a contractor's license to be used by a person other than the licensee.
  - (c) Violation of this Article.
  - (d) The obtaining of any license by fraud or misrepresentation.
  - (e) Receipt of three (3) or more complaints.

#### **Section 5-21 Application Form and Contents.**

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

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

### ARTICLE 3. NON-CONFORMANCE

#### Section 5-22. Non-Conformance.

- (1) **Definition.** Legal Non-Conforming refers to uses and structures which were begun or constructed when the law allowed for them but have since become noncompliant due to a change in legislation (for example, new codes are adopted).
- (2) **How a structures loses non-conforming status.** Any structure or building within the city limits is a non-conforming structure meaning that when the City adopts a new code or standard the buildings built to the previous code are no longer conforming to the existing code. A non-conforming structure is allowed to remain as is, as long as it is generating tax revenue and is open for business. Once the business ceases to generate revenue or is vacant for no less than twelve consecutive months it loses its non-conforming status. A building under these circumstances must, therefore, be brought up to current code standards. Part of that process requires an assessment by a registered design professional be provided to the Building Official.

### ARTICLE 4. MEANS OF APPEAL

#### Section 5-23. Board of Appeals and Means of Appeal.

- (1) **Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

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(2) **Membership of board.** The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the City Manager, and shall serve staggered and overlapping terms.

(a) **Alternate Members.** The City Manager shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.

(b) **Chairperson.** The board shall annual select one of its members to serve as chairperson.

(c) **Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.

(d) **Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.

(e) **Compensation of members.** Compensation of members shall be determined by law.

(3) **Notice of meeting.** The board shall meet upon notice from the chairperson, within 20 days of the filing of an appeal, or at stated periodic meetings.

(4) **Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.

(a) **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

(5) **Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

(6) **Board decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

(a) **Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

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(b) **Administration.** The code official shall take immediate action in accordance with the decision of the board.

(7) **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

(8) **Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

**Section 5-24. Variance Petition.**

(1) Before any variance may be granted, the Board of Appeals must find *all* of the following:

(a) **Existence of special conditions or circumstances.** That special conditions and circumstances exist which are peculiar to the structure or building involved and which are not applicable to other structures or buildings in the same zoning district.

(b) **Conditions not created by applicant.** That the special conditions and circumstances do not result from the action or negligence of the applicant.

(c) **Special privilege not conferred.** That granting the variance requested will not confer upon the applicant any special privileges denied to other buildings or structures in the same zoning district.

(d) **Hardship conditions exist.** That literal interpretation of the provisions of the building code regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

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

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

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

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

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

#### VARIANCE PROCEDURE

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

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