

# **CHAPTER 1. GENERAL PROVISIONS.**

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## CHAPTER 1. GENERAL PROVISIONS.

### ARTICLE 1. IN GENERAL.

#### Section 1-1. Designation and citation of Code.

The ordinances of the City of Trinidad, Colorado, embraced in this and the following Chapters shall constitute and be designated, "The Code of the City of Trinidad, Colorado," and may be so cited. The Code may also be cited as the "Trinidad City Code" or, in the provisions which follow, as "this Code". (Code 1958, Sec. 1-1.)

#### Section 1-2. Definitions.

- (1) *Alley* shall mean a street or highway intended to provide access to the rear or side of lots or buildings in urban areas and not intended for the purpose of through vehicular traffic.
- (2) *Building Inspector(s)* shall mean such officers, inspectors, deputies and assistants in the Inspection Division of the Department of Public Works who may be authorized to enforce specific provisions of this Code.
- (3) *Charter* shall mean the Charter of the City of Trinidad.
- (4) *City, or this City* shall be construed as if "of Trinidad" followed them and shall extend to and include the several officers, agents and employees of the City of Trinidad.
- (5) *City Council, Council* shall mean the City Council of the City of Trinidad.
- (6) *City Engineer* shall mean the Director of Public Works of the City of Trinidad, Colorado.
- (7) *City Manager or Manager* shall mean the City Manager of the City of Trinidad.
- (8) *City Clerk; City Clerk-Treasurer, City Treasurer* shall mean the City Clerk-Treasurer of Trinidad.
- (9) *Code* shall mean this Code.
- (10) *County* shall mean the County of Las Animas.
- (11) *C.R.S.*, appearing in this Code, refer to and designates the Colorado Revised Statutes.
- (12) *District Court* shall mean the District Court sitting in and for the County of Las Animas.
- (13) *Month* shall mean a calendar month.
- (14) *Oath* shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

(15) *Owner*, applied to a building or land, shall include any part owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

(16) *Person* shall extend and be applied to organizations, associations, clubs, societies, firms, partnerships, copartnerships and bodies politic and corporate as well as to individuals, any combination of individuals acting as a unit.

(17) *Personal property* shall include every species of property except real property.

(18) *Preceding; following* shall mean next before and next after, respectively.

(19) *Property* shall include personal, real and fixed property.

(20) *Public place* shall mean a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities.

(21) *Real property* shall mean land, including land under water, buildings, structures, fixtures and improvements on land; any property appurtenant to or used in connection with land; and every estate, interest, privilege, leasehold, easement, license, franchise, right-of-way, and other right in land, legal or equitable, including, without limiting the generality of the foregoing, rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgement, mortgage or otherwise, and the indebtedness secured by such liens.

(22) *Roadway* shall mean those portions of a street or highway improved, designed or ordinarily used for vehicular travel.

(23) *Sidewalk or sidewalk area* shall mean that portion of a street between the curb lines, or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

(24) *State or this State* shall mean the State of Colorado.

(25) *Street* shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(26) *Tenant; occupant*, applied to a building or land, shall include any person holding a written or oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

(27) *Year* shall mean a calendar year.

### **Section 1-3. Rules of construction.**

In the construction of this Code and of all ordinances, the following rules shall be observed, unless inconsistent with the City Council or the context clearly indicates otherwise:

(1) Common and technical usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(2) Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceedings shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday or legal holiday, that day shall not be counted in the computation.

(3) Conflicting provisions. If a general provision of the Code conflicts with a more specific provision of the Code and such conflict is irreconcilable, the more specific provision shall prevail as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail. If it cannot be determined which conflicting provision is more specific, the provision most recently adopted shall prevail.

(4) Definitions. The definitions contained in Section 1-2 of this Code shall apply to those terms whenever they are used in the Code unless otherwise expressly provided. Definitions provided within a given chapter, shall be applicable only within such chapter, unless otherwise expressly provided.

(5) Gender. Words importing the masculine gender shall include the feminine and neuter as well as masculine.

(6) Heretofore and hereafter. Whenever the word heretofore appears in any Section, it shall be construed to mean any time previous to the day when that Section shall take effect; whenever the word hereafter appears, it shall be construed to mean the time after the Section takes effect.

(7) Number. Words importing a singular shall include the plural and the plural shall include the singular.

(8) Or; and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

(9) Shall; must; may. The words "shall" and "must" are mandatory and the word "may" is permissive.

(10) Tense. Words used in the present or past tense shall include the future as well as the present or past.

(11) Writing; written. The words "writing" and "written" shall include printing and any other mode of representing words, letters and figures.

#### **Section 1-4. Chapters, Articles, Divisions, Sections and Subsections; headings and catch lines.**

All headings of Chapters, Articles or Divisions and all catch lines of Sections and Subsections are unofficial and intended only for convenience in arrangement and as mere catchwords to indicate the contents of the Chapters, Articles, Divisions, Sections and Subsections. They shall not be deemed to be part of the contents of the Chapters, Articles, Divisions, Sections or Subsections; nor shall the headings and catch lines alter the otherwise intended meaning of any provision of this Code.

**Section 1-5. Reference to Sections.**

Wherever in this Code or the ordinances of this City a reference is made to several Sections and the Section numbers given in the reference are connected by the word "to", the reference includes both Sections whose numbers are given and all intervening Sections.

**Section 1-6. Prospective effect of Code; repealed ordinances not revived.**

This Code shall not affect any act done, any right accrued, any penalty incurred, any suit, prosecution or proceeding pending, or the tenure of office of any person holding office, at the time when it takes effect, nor shall the repeal of any ordinance have the effect of reviving an ordinance theretofore repealed or superseded, or the effect of preventing any punishment or penalty incurred before the repeal took effect, or of interfering with any suit, prosecution or proceeding pending at the time of repeal, for an offense committed under the ordinance repealed.

**Section 1-7. Territorial applicability.**

This Code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by virtue of any Constitutional provision or any law.

**Section 1-8. General penalty; subsequent violation; suspension or revocation of license.**

(1) 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.

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

(3) 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.

**Section 1-9. 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 1-10. Same offense punishable by different Sections of Code; City Attorney's option.**

In all cases where the same offense is made punishable or is created by different Sections of this Code, the City Attorney may elect under which to proceed, but not more than one (1) action shall be taken against the same person for the same offense.

**Section 1-11. Judgments and sentences to run consecutively.**

All judgments and sentences imposed and ordered by the Municipal Court of the City shall run consecutively unless otherwise specifically provided by the Judge of such Court. (Code 1958, Sec. 1-10.)

**Section 1-12. Severability of parts of Code.**

The Sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or Section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and Sections of this Code.

**Section 1-13. Location of Code.**

This Code shall be kept on file in the office of the City Clerk, preserved in loose leaf form, or in such other form as the City Clerk may consider most expedient. It shall be the express duty of the City Clerk, or someone authorized by him/her to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of this Code when the same has been printed or reprinted in page form, and to extract from the Code all provisions which may from time to time be repealed by the City Council. A copy of the Code shall be available for all persons desiring to examine it.

**Section 1-14. Certified copy of Code admissible into evidence.**

Any copy of the Trinidad City Code or any copy of any addition, amendment or supplement thereto adopted, published and certified according to law shall be received in evidence in any court for the purpose of proving the ordinances therein contained with like force and effect and for the same purpose as the original ordinances would be received.

**Section 1-15. Certified copies of documents.**

The City Clerk is authorized to prepare copies of official records and documents of the City and certify the same as being true and correct copies of the original from which they were copied, and to furnish the same to the person applying therefor upon presentation of receipt of payment by the Director of Finance showing cost of such service has been paid.

**Section 1-16. Fees for inspection, copying and photographing of public records.**

In addition to the twenty-five cents (\$.25) per page fee provided for in Title 24, C.R.S., 24-72-205(1), the City Clerk shall charge and collect in advance: (1) The sum of Three Dollars and fifty cents (\$3.50) for furnishing a certified copy of any document, instrument or paper on file, in addition to twenty-five cents (\$.25) per page, for document, instrument or paper furnished (Ord. No. 1834, 7/17/07); (2) The sum of Ten Dollars (\$10.00) per hour when it shall be necessary to search for and retrieve any public records in response to any private person's request for such public records. (3) The sum of Twenty Dollars (\$20.00) for the reproduction of tape recordings.

**Section 1-17. Altering Code prohibited.**

It shall be unlawful for any person to change or amend by additions or deletions, any part or portion of

this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

**Section 1-18. Franchises and special privileges; deposit for costs.**

Any person requesting any special privileges, grants or franchises from the City, is required to deposit with the City Clerk such sum of money as the Council may deem sufficient to defray all expenses incident to the procuring of such franchises or special privileges; provided, if any money remains after payment of all expenses, it shall be refunded to the party paying it to the Clerk.

**Section 1-19. Franchises and special privileges; violations; termination.**

Any violations of the duties and obligations imposed and prescribed to be done and performed by grantees of any franchise or grant of special privilege, or of the conditions of such franchise or grant or of relevant provisions of this Code, shall terminate and end all rights granted such franchise or grant.

**Section 1-20. City seal.**

A seal outlining the equestrian bronze sculpture of Christopher “Kit” Carson and the silhouette of Fisher's Peak is the official seal of the City.

## ARTICLE 2. INSPECTIONS.

### Section 1-21. Inspections; when entry authorized.

The proper City inspection authority or its authorized agent shall have the right to make an inspection of any premises in the City in order to determine the existence of violations of any provisions of this Code pertaining to the health, welfare and safety of the public. Such inspector shall have the right to enter any premises in the City for such inspection purposes, without a warrant, if any of the following circumstances exist:

(1) Entry with permission. Entry is by permission or at the request of the owner or occupant of the premises; or

(2) Imminent danger. Where an imminent danger to health, welfare or safety exists; or

(3) Danger from accident. Following an accident where an immediate inspection is required to determine if an imminent danger to health, safety or welfare exists; or

(4) Any other emergency inspection, or in any other case where warrants are not presently required by law.

### Section 1-22. Types of inspections authorized.

The following types of inspections may be conducted by the proper City inspection authority or its authorized agent:

(1) Routine inspection. The inspection of the designated premises is part of a routine area inspection being conducted.

(2) Spot check. The inspection of the designated premises is part of a spot check being conducted within a designated area.

(3) Knowledge of violation. The inspector has knowledge of a violation or knowledge of facts which would indicate a violation of any provision of this Code pertaining to health, safety or welfare of the public.

(4) Inspection after alteration, remodeling or improvements. The inspection is for the purpose of inspecting, during the course, or upon completion of alteration, remodeling or improvements in the premises.

(5) Checking conditions after accident. The inspection is for the purpose of checking the conditions existing in the premises following an accident or casualty therein where an inspection is required to determine if an imminent danger to health and safety exists.

(6) Licensing of buildings and structures. The inspection is for the purpose of checking the conditions existing in any building or structure requiring a license before occupancy upon application for or renewal of such license.

## **ARTICLE 3. SERVICE OF PROCESS.**

### **Section 1-23. Personal service.**

Wherever in this Code, service of any notice shall or may be by personal service, such personal service shall be as follows:

(1) Upon a natural person over the age of eighteen (18) years by delivering a copy thereof to him/her, or by leaving a copy at his/her usual place of abode, with some member of his/her family over the age of eighteen (18) years, or by leaving a copy in a conspicuous place at his/her usual place of business, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

(2) Upon a natural person under the age of eighteen (18) years by delivering a copy thereof to him/her and a copy thereof to his/her father, mother or guardian, or if there be none in the City, then by delivering a copy thereof to any person in whose care or control he/she may be, or with whom he/she resides, or in whose service he/she is employed.

(3) Upon a person from whom a conservator or representative has been appointed, by delivering a copy thereof to such conservator or representative.

(4) Upon a partnership, or other unincorporated association, by delivering a copy thereof to one (1) or more of the partners or associates, or a managing or general agent thereof.

(5) Upon a private corporation, by delivering a copy thereof to any officer, manager, general agent, or agent for process. If no such officer or agent can be found in the City, such copy may be delivered to any stockholder, agent, member or principal employee found in the City. If such service be upon a person other than an executive officer, the secretary, general agent, or agent for process, then the City Clerk shall mail a copy thereof to the corporation at its last known address at least fifteen (15) days before the time stated in the notice on which or within which the corporation to whom it is directed shall do or accomplish that which it is the purpose of the notice to command it to do.

(6) Upon a public corporation or other public agency subject to notice, by delivering a copy thereof to the principal officer, chief clerk or other executive employee thereof.

### **Section 1-24. Manner of proof of service.**

(1) If served by a police officer or City employee, by his/her certificate with a statement as to date, place and manner of service.

(2) If by any person, by his/her affidavit thereof, with a statement as to date, place and manner of service.

- (3) If by mail, by the certificate of the City Clerk showing the date of the mailing; and the return receipt, showing the date of receiving the notice.
- (4) If by publication, by the affidavit of publication, together with the certificate of the City Clerk as to the mailing of the notice where mailing is required.
- (5) By the written admission or waiver of service by the person to be served, duly signed and acknowledged. Acknowledgment of such admission or waiver of service may be taken before a Notary Public.

**Section 1-25. Refusal to accept.**

If the person to be served refuses to accept a copy of the notice, service shall be sufficient if the person serving it shall state the general nature of the notice and offer to deliver a copy thereof.

**Section 1-26. Service upon attorney representing party to whom notice is addressed.**

Whenever under any ordinance, order, resolution or directive service of a notice is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself/herself is directed by the ordinance, order, resolution or directive or is ordered by the City Council. Service upon the attorney may be made by delivering a copy to him/her personally or by mailing it to him/her at his/her address as given to the City Clerk or the department charged with giving such notice. Delivery of a copy within this Subsection means handing it to the attorney; or leaving it at his/her office with his/her clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the attorney to be served has no office, leaving it at his/her dwelling, house or usual place of abode with some member of the family over the age of eighteen (18) years residing therein. Service by mail is complete upon mailing.

**ARTICLE 4. ADOPTION OF CODES BY REFERENCE.**

**Section 1-27. Definitions.**

As used herein:

- (1) *Primary code* shall mean any code which is directly adopted by reference in whole or in part by any ordinance passed pursuant to this Article.
- (2) *Published* shall mean issued in printed, lithographed, multi graphed, mimeographed or similar form.
- (3) *Secondary code* shall mean any code which is incorporated by reference, directly or indirectly, in whole or in part, in any primary code or in any secondary code.

**Section 1-28. Adoption of codes by reference; title.**

If all the procedures and requirements of this Article are complied with, the City is authorized to enact any ordinance which adopts any code by reference, in whole or in part; and such primary code, thus adopted, may in turn adopt by reference, in whole or in part, any secondary codes duly described therein. However, every primary code which is incorporated in any such adopting ordinance, shall be specified in the title of the ordinance.

**Section 1-29. Procedure for adoption.**

The procedure for adoption of all ordinances adopting codes by reference shall be in accordance with the requirements of Section 5.6 of the Charter. In addition to the notice and publication requirements of Section 5.6 (d) of the Charter, the published notice shall also state that copies of the primary code and copies of the secondary code, if any, being considered for adoption, are on file with the City Clerk and are open to public inspection.

**Section 1-30. Adopting ordinance; adoption of penalty clauses by reference prohibited.**

After the hearing, the Council may amend, adopt or reject the adopting ordinance in the same manner in which it is empowered to act in the case of other ordinances; provided, nothing in this Article shall be deemed to permit the adoption by reference of any penalty clauses which may appear in any code which is adopted by reference. Any such penalty clauses may be enacted only if set forth in full, and published, in the adopting ordinance. It is further provided that all changes or additions to any code made by the Council shall be published in the manner which is required for ordinance.

**Section 1-31. Publication of ordinance.**

Nothing contained in this Article shall be deemed to relieve the City from the requirement of publishing in full the ordinance which adopts any such code, and all provisions applicable to such publication shall be fully carried out. The adopting ordinance shall contain the name of the code, the year of the publication and the name and address of the publisher, and where copies of the code are kept.

**Section 1-32. Filing of public record; sale of copies.** At least one copy of each primary code adopted by reference, of each secondary code pertaining thereto, shall be filed in the office of the City Clerk at least seven (7) days prior to the hearing on the adopting ordinance, and shall be kept there for public inspection while the ordinance is in force.

**Section 1-33. Amendments.** If at any time any code, which the City has previously adopted by reference, shall be amended by the agency or municipality which originally promulgated, adopted or enacted it, then the Council may adopt such amendment by reference through the same procedure as required for the adoption of the original code; or an ordinance may be enacted in regular manner, setting forth the entire text of such amendment.

**Section 1-34. Use as evidence.**

Copies of such codes in published form, duly certified by the Clerk and Mayor shall be received without further proof as prima facie evidence of the provisions of such codes or public records in all courts and administrative tribunals of this State.

## ARTICLE 5. MUNICIPAL LIENS.

### Section 1-35. Creation of Municipal Liens.<sup>2</sup>

(1) Any amount of money owed to the City for services, taxes, or assessments which concern or benefit the real property of the obligor shall automatically become a lien upon such real property. Such automatic liens will not be available where the payment obligation to the City is not directly related to the use, maintenance, improvement, or taxation of, or other service to, the real property involved. These liens shall become first and prior liens upon the property in question. These liens shall be in the nature of a municipal tax, and, as such, shall be perpetual and continuing liens. The procedure contained in this Article shall be followed in enforcing such municipal liens, except in those instances where a different procedure is prescribed by another section of this Code.

(2) If payments due the City have not been otherwise collected, the Director of Finance may certify the amount due to the county treasurer. The county treasurer, upon receipt of the statement of the Director of Finance establishing the amount owed, shall collect the amount owed, together with a ten percent (10%) penalty thereon to defray the cost of collection, in the same manner as municipal taxes are collected; provided, however, that upon notice to the county treasurer by the City that the City intends to pursue judicial foreclosure of the lien so established, the county treasurer shall refrain from attempting to collect the amount due.

(3) The procedure contained in this Article is not intended to establish an exclusive method for collection of amounts owed to the City, and nothing contained herein shall preclude the City from pursuing other methods of collection, including judicial foreclosure of municipal liens.

### Section 1-36. Discharge of Municipal Liens.<sup>2</sup>

Within thirty (30) days of payment of the full amount owed to the City, the Director of Finance shall notify the county treasurer that the amount due the City has been paid, and that any liens resulting from that debt shall be discharged.