

PREFATORY SYNOPSIS

The Trinidad, Colorado Home Rule Charter Commission was elected on the 13th day of April, 1993, according to the provisions of Article XX of the Constitution of the State of Colorado. The elected members of the Commission have been charged with the responsibility of drafting this Charter to prescribe the form and substance of Home Rule Government to the City of Trinidad, Colorado.

This Charter reserves to the people of Trinidad the absolute right and power of self-government under the Home Rule Provisions of the Constitution of the State of Colorado.

This Charter ensures the orderly and economical management of the government of Trinidad, guided and controlled by the people of Trinidad, through their elected representatives.

To ensure the greatest possible control of governmental process “by the people” provision is made in the Charter for direct democratic processes of initiative, referendum, and recall. These provisions provide the means whereby the people can, if they wish, directly control the legislative process and/or recall any elected official who proves to be unsatisfactory.

The Charter retains a Council-Manager form of Government for the City with an elected Mayor and appointed City Manager.

Under this Charter the Council will be responsible to the people, will have all legislative powers, will enact ordinances, resolutions, and motions for the good government of the City. All ordinances now in effect will remain in effect unless superseded by the provisions of this Charter, or hereafter amended, or repealed by the Council. Ordinances shall be codified and updated as hereinafter provided.

**CHARTER
for the
CITY OF TRINIDAD, COLORADO**

****PREAMBLE****

We, the people of Trinidad, Colorado under the authority of the State of Colorado, do ordain, establish, and adopt this Home Rule Charter for the City of Trinidad, Colorado.

CHAPTER I

NAME AND BOUNDARIES

- 1.1 Name and Boundaries. The Municipal Corporation heretofore and now existing and known as the City of Trinidad, shall remain and continue to be a body politic and corporate, with the same name and with the same boundaries as now existing. The City of Trinidad shall have such power and authority to change its boundaries in the manner authorized under the Colorado Constitution for Home Rule cities.

CHAPTER II

MUNICIPAL POWERS

- 2.1 Form of Government. The municipal government by this Charter shall be the Council-Manager form of government, and all powers of the City shall be exercised by, through, and under the direction of the City Council who shall be elected as hereinafter provided.
- 2.2 Rights & Liabilities. The City shall have perpetual succession; shall own, possess and hold all property, real and personal, heretofore owned, possessed and held by said City, and shall assume, manage and dispose of all trusts in any way connected therewith; shall succeed to all the rights and liabilities and shall acquire all benefits and does assume and shall pay all bonds, obligations and indebtedness of the City; may in the name of the City sue and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may purchase, receive, hold and enjoy, or sell and dispose of real and personal property; and may have and use a common seal and alter the same.
- The City shall have the power, within or without its territorial limits, to construct, condemn, and purchase, acquire, lease and to maintain, conduct and operate all public utilities and franchises.
- 2.3 Eminent Domain. In carrying out the powers and duties imposed upon it by this Charter and the Colorado Constitution, the City shall have the power to acquire within or without its corporate limits, lands, buildings, water, water rights, and water storage rights, and other properties, any interest in land and air rights over land, and may take the same upon paying just compensation to the owner as provided by law.
- 2.4 Power of the City. The City shall have all powers of local self government and Home Rule possible for a city to have under the Constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.
- 2.5 Reservation of Power. The City shall have all powers that are, or hereafter may be granted to the municipalities of every class by the Constitution and laws of Colorado; and all such powers whether expressed or implied shall be exercised and enforced in the manner prescribed by this Charter, or when not prescribed herein, in such manner as shall be provided by ordinance of the Council.

CHAPTER III

ELECTIONS

- 3.1 Laws Governing Elections. All regular and special municipal elections shall be governed by state statutes, except as otherwise set forth in this Charter.
- 3.2* ~~Regular Municipal Elections.~~ ~~Regular Municipal Elections shall be held on the first Tuesday after the first Monday in November of odd numbered years.~~
- 3.2 Regular Municipal Elections. Regular Municipal Elections shall be held on the first Tuesday in November of odd numbered years. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 8, 2005.)

Council Persons and the Mayor shall take office at the first regular meeting after January 1st of the ensuing year.

- 3.3 Recall. The electors of the City of Trinidad shall have the power to recall Council Persons or the Mayor in accordance with the provisions of this article of the Charter provided said official has held office at least six (6) months.

Any recall petition must be signed by registered voters numbering at least ten percent (10%) of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be recalled occupies.

A recall petition shall be started by no less than five (5) registered voters stating their intentions in writing to the City Clerk. They shall include a general statement of one hundred (100) words or less stating the grounds on which recall is sought.

The City Clerk shall publish said petition and inform the Council that a recall petition is to be circulated and that for the Council to set a recall election, the petition must be signed within sixty (60) days by registered voters numbering at least ten percent (10%) of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be recalled occupies.

Each petition form shall bear the names of the five (5) electors, who, as a committee of petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition there shall be an affidavit of the circulator in accordance with applicable State Law.

The petition shall request the City Council set the date for a recall election within thirty (30) days of certification by the City Clerk.

The completed petition must be submitted to the City Clerk not later than 5:00 P.M. on the sixtieth (60th) day following publication, or the next normal business day thereafter, for certification.

The City Clerk shall within ten (10) days of submission of the petition, determine whether the petitions are signed by the required number of registered voters and, if sufficient, shall certify the petition. If the petition is insufficient, the Clerk shall forthwith notify in writing the committee and the petition may be amended within ten (10) days. After such amendment, the City Clerk shall within five (5) days examine the amended petition and attach the certificate of the results. If it is still insufficient, the petition shall be returned to the committee without prejudice to the filing of a new petition.

Upon certification, the City Clerk shall notify the Council which must within thirty (30) days set the date of the recall election. Said election must be called within sixty (60) days of certification unless a Regular Municipal Election is fixed within ninety (90) days.

The voters qualified to cast their ballots for said office shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of such grounds assigned for such recall, and said grounds shall not be open to review.

The ballot for the recall shall contain the original one hundred (100) word or less statement of the grounds for the recall as well as a response statement of one hundred (100) words or less from the official being recalled. It shall include the question, "Shall (name of person) be recalled from the office of (title of office)?" Following the question the words "YES" and "NO" shall be listed.

Also on such ballots, under each question, there shall be printed the names of those persons who have been nominated as candidates to succeed the person sought to be recalled.

The name of the person against whom the recall is sought shall not appear on the ballot as a candidate for the office.

Candidates desiring to place their names in nomination for the office, and who are qualified to hold such office, shall file their petitions with the City Clerk not less than thirty (30) days prior to the recall elections. All petitions and procedures shall be in conformance with the Colorado Municipal Election Code.

If the official who is the subject of the recall offers his/her resignation, it shall be accepted, and the vacancy shall be filled by Special Election except that if a Regular Municipal Election is scheduled to be held within ninety (90) days of certification, then by Regular Municipal Election. The name of said person who has resigned, after certification, shall not appear on the ballot as a candidate for the office.

CHAPTER IV

ELECTED OFFICIALS

4.1 Elective Officers. The elective officers of the City of Trinidad shall consist of one Mayor and six (6) Council Persons. Any elected officer of the City of Trinidad may be recalled from office as previously specified.

4.2 Qualifications of Elected Officers (Mayor and City Council Persons). Each candidate for Council Person or Mayor when nominated and elected shall be an eligible and registered elector of the City, a citizen of the United States for at least five (5) years and shall have been domiciled in the City for at least twelve (12) months immediately preceding the election.

Further, no person shall be appointed to any City office, position, or employment for which compensation was increased or fixed by City Council while that person was a member thereof until one year from the date that person ceased to be a Council Person or Mayor.

* ~~No candidate for City Council or Mayor shall hold any other elective City office unless the term of such other elective office shall expire on or before the date on which such candidate would take office if elected. However, a person may simultaneously serve as a member of the City Council or Mayor, and as a member of a Home Rule Charter Commission of the City.~~
No person shall be a candidate for Mayor and City Council Person at the same election, or hold both positions simultaneously. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 1, 2011.)

Neither the Mayor nor any member of City Council may be a salaried employee or officer of the City during his/her term of office.

* Subject to the provisions of this paragraph, no ~~no~~ person may serve as an elected official of the City for a continuous period of more than eight (8) years. Any person who has ~~held any elective office or offices for a continuous period of eight (8) years~~ so served shall thereafter become ineligible to serve ~~on City Council or as Mayor~~ as an elected official for a period of four (4) years. A period in which a person was appointed to the office for less than a full term of office, or was elected to a period that was less than a full term of office, shall not be included in the limitations of this subsection. No person may be appointed Mayor or Council Person after he or she has been term limited, unless at least four (4) years have passed since leaving the term limited office. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 1, 2011.)

4.3 Council. There shall be a City Council of six (6) members who shall be elected at large from the entire City. The term of elective office for each Council Person shall be four (4) years, and until his/her successor is elected and assumes office. Council Persons may be elected for a maximum of two (2) consecutive terms and thereafter, shall become ineligible to serve on City Council or as Mayor for a period of four (4) years. Three (3) Council Persons shall be elected at one Regular Municipal Election and the other three (3) Council Persons shall be elected at the next succeeding Regular Municipal Election.

4.4 Terms of Office. Those Council Persons serving or elected on the date of the final adoption of this Charter shall continue in office for the remainder of the respective terms to which they were elected.

In the Regular Municipal Election to be held in 1995, the three (3) candidates for City Council receiving the greatest number of votes shall be elected for four (4) year terms.

In the Regular Municipal Election to be held in 1997 and thereafter, the three (3) candidates for City Council receiving the greatest number of votes shall be elected for four (4) year terms.

- 4.5 Powers of the Council. The elected Mayor and elected City Council shall be the governing and legislative body of the City. Council shall have all powers established by the Colorado Constitution under Home Rule and hereinafter provided in this Charter.
- 4.6 Mayor. The Mayor shall be elected at large by the registered voters of the entire City. The term of office for the Mayor shall be two (2) years. The Mayor, if elected, may serve up to a maximum of four (4) consecutive elective terms. Thereafter, the Mayor shall become ineligible to serve as Mayor or on City Council for a period of four (4) years. The Mayor shall preside at all meetings of the Council and shall have all of the powers, rights, and privileges of a Council member. The Mayor shall be recognized as the head of City government for all ceremonial and legal purposes, by the courts for serving civil process and by the government for purposes of military law.

The Mayor elected on the date of final adoption of this Charter shall continue in office for the remainder of the term to which he/she was elected.

- 4.7 Mayor Pro-Tem. The Mayor Pro-Tem shall be appointed by the City Council from its membership at the first regular meeting after January 1 following each regular City election. The term for Mayor Pro-Tem shall be two (2) years. The Mayor Pro-Tem shall not serve two (2) consecutive terms as Mayor Pro-Tem. In the absence of the Mayor, the Mayor Pro-Tem shall perform all duties and have all the powers of the Mayor. In the event of the absence of both the Mayor and the Mayor Pro-Tem, the Council shall appoint one other of its members to serve as Acting Mayor. The Acting Mayor, while serving, shall perform all the duties and have all the powers of the Mayor as well as retaining all Council members rights and powers.

CHAPTER V

COUNCIL PROCEDURE

- 5.1 Codification. Within eighteen (18) months of the effective date of this Charter, the City Council shall direct and complete the codification of the Code of Ordinances of the City of Trinidad.
- 5.2 Ordinances. The Council shall act only by ordinance, resolution or motion. All legislative enactments shall be in the form of ordinances. All other actions, except as herein provided, may be in the form of resolutions or motions. All ordinances shall be identified by a short title and number and shall be codified upon passage.
- 5.3 Voting. A roll call vote by “Yes” and “No” shall be taken upon the passage of all ordinances and resolutions, and entered upon the minutes of the Council proceedings. Every ordinance shall require the affirmative vote on final reading of a majority of the entire Council for final adoption. Resolutions and motions shall require the affirmative vote of a majority of the members present. No member of the Council shall vote on any question on which he/she has a substantial personal or financial interest, as determined by a majority of the Council, other than the common public interest, or on any question concerning his/her own conduct, and in said instances the member shall disclose this interest to the Council. Failure of any Council member to comply as specified shall be considered misconduct in office. On all other questions each member present at the meeting shall vote unless excused by the unanimous consent of the remaining members. Any other abstention, or refusal to vote, or absenting one-self from the room during the call for question shall be ruled a “yes” vote, recorded as such, and considered misconduct in office.
- 5.4 Ordinance Required. Every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, placing any burden upon or limiting the use of private property, required by other provisions of this Charter or by state law shall be by ordinance. All ordinances shall be confined to one subject except the Annual Appropriation Ordinance, the repealing of ordinances, or the codification of ordinances.
- 5.5 Form. Every ordinance shall be written in plain, unambiguous language and shall be introduced in written or printed form. The enacting clause of all ordinances shall be: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO. All ordinances shall take effect ten (10) days after final passage except as otherwise specified in this Charter. Every ordinance introduced shall be deemed to contain a severability clause, whether stated therein or not, except as otherwise provided in this Charter.
- 5.6 Procedure. The procedure for enactment of all ordinances shall be as follows:
- (a) The ordinance shall be introduced at any regular meeting of the Council by any member thereof.
 - (b) The ordinance shall be read in full.
 - (c) After the first reading of the ordinance, the same shall be approved, amended, or rejected by a vote of the Council.

(d)* If the ordinance is approved on the first reading, it shall be published in at least 10 pt. Pica* type, in full, in a local newspaper of general circulation. The Council shall set a day, hour, and place at which Council shall hold a public hearing on the ordinance and notice of said day, hour, and place at which Council shall hold a public hearing on the ordinance and notice of said day, hour, and place shall be included in the publication. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 2, 1999.)

(e) The ordinance shall be read, title only, a second time, at a regular or special meeting not earlier than seven (7) days nor later than ninety (90) days after publication, for final adoption, rejection or other action as may be taken by vote of the Council. This meeting may be the same meeting at which the public hearing on the ordinance is held. The ordinance may be amended before final adoption by vote of the Council.

(f)* After final passage, the ordinance shall be published in at least 10 pt. Pica* type, in full, in a local newspaper of general circulation. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 2, 1999.)

5.7 Emergency Ordinances. To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances.

No ordinance making a grant of special privilege, levying taxes, incurring indebtedness, authorizing borrowing money, or fixing rates charged by any city-owned utility shall ever be passed as an emergency ordinance. No ordinance incurring indebtedness or authorizing the borrowing of money shall ever be passed as an emergency measure except in the case of a declared disaster.

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances. It shall contain, after the enacting clause, a declaration stating that an emergency exists and declaring it in clear and specific terms. An emergency ordinance may be adopted on first reading. The affirmative vote of at least two-thirds (2/3) of the members of the City Council present shall be required for adoption. After its adoption the ordinance shall be published in full. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 31st day following the date on which it was adopted.

5.8 Disposition. A true copy of every ordinance, as adopted by Council shall be numbered and recorded in the official records of the City. Its adoption and publication shall be authenticated by the signatures of the Mayor or Mayor Pro-Tem, and the City Clerk and by certification of publication.

5.9 Regular Meetings. The Council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of the Council. The Council shall determine the rules of procedure governing meetings.

5.10 Special Meetings. Special meetings shall be called by the Clerk upon written request of the Mayor or any two (2) members of the Council with at least a twenty-four (24) hour written notice to each member of the Council, served personally or left at his/her usual place of residence. Notice of such meeting shall be posted in two (2) public places.

5.11 Compensation. The members of the Council shall receive such compensation and the Mayor such additional compensation as the Council shall prescribe by ordinance, provided, however, that they shall neither increase nor decrease the compensation of any member during his/her term of office.

The Mayor and Council Persons may, upon order of the Council, be paid their actual and necessary expenses incurred in the performance of their duties of office.

- 5.12 Business at Special Meetings. No business shall be transacted at any special meeting of the Council unless the same has been stated in the notice of such meeting. Any business which may lawfully come before a regular meeting may be transacted at a special meeting if all the members present consent thereto and all members absent file their written consent.
- 5.13 Quorum. A majority of the members of the Council in office at the time, including the Mayor, shall be a quorum for the transaction of business at all Council meetings. In the absence of a quorum a lesser number may adjourn any meeting to a later time or date not to exceed one week.
- 5.14 Vacancies. Council Persons and the Mayor shall continue to hold office until his/her elected successor is duly qualified. A Council seat or the Mayor's office shall become vacant whenever any officer dies, becomes incapacitated, is judicially declared incompetent, resigns or ceases to be domiciled in the City, or is convicted of a felony. It shall be the duty of the Council to declare such a vacancy exists.

Within forty-five (45) days after a vacancy is declared the Council shall choose, by majority vote, a duly qualified person to fill such vacancy except as otherwise set forth in this Charter. He/she shall serve only until the next Regular Municipal Election at which time the Electors shall elect a Council Person and/or Mayor to succeed or serve the remainder of the unexpired term if applicable.

In the event City Council is unable to reach a decision as to a successor to fill an existent vacancy, a Special Election will be called, provided there will not be a Regular Municipal Election within ninety (90) days.

If three (3) or more vacancies exist simultaneously the remaining Council Persons shall at the next regular meeting of the Council, call a Special Election to fill such vacancies, provided there will not be a Regular Municipal Election within ninety (90) days and provided that their successors have not previously been elected.

- 5.15 Oath of Office. Before entering upon the duties of his/her office, every Council Person, the Mayor, City Clerk, Police Chief, Fire Chief, City Manager, Judge and City Attorney shall take, subscribe before and file with the City Clerk an oath or affirmation that he/she will support the Constitution of the United States, the Constitution of the State of Colorado, this Charter and the ordinances of the City and will faithfully perform the duties of the office.
- 5.16 Meetings to be Public. Council shall establish the procedure for proper and timely public notification of all Council meetings. All regular and special meetings of the Council shall be open to the public and citizens shall have reasonable opportunity to be heard under such rules and regulations as the Council may prescribe. A journal shall be kept of all Council proceedings which shall be a public record.
- 5.17 Executive Session. The Council may proceed in executive session at any regular or special meeting. Prior to the initiation of any executive session, the Council shall state the subject matter of the executive session in a motion calling for said session. All voting on matters which have been the subject of a closed session shall be recorded publicly.

The Council shall hold executive sessions only upon the affirmative vote of two-thirds (2/3) of the quorum present.

The purposes of executive session shall be limited to: the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; conferences with the City Attorney or any other attorney retained by the City for the purpose of receiving legal advice on specific legal questions; matters required to be kept confidential by federal or state law or rules and regulations; specialized details of security arrangements or investigations; determining positions relative to matters that may be subject to negotiations; instructing negotiators; and personnel matters. In those instances in which City Council is acting as a quasi-judicial body, it may deliberate in executive session to consider the evidence in a quasi-judicial proceeding or hearing. The City Council shall not make final policy decisions nor shall any resolution, ordinance, or formal action approving a contract or calling for the payment of money be adopted or approved at any session which is closed to or held without the knowledge of the general public. Any action taken by Council which is contrary to this provision shall be null and void and without force or effect.

5.18 Initiative. The electors of the City of Trinidad shall have the power of Initiative in accordance with the provisions of this article of the Charter.

Any proposed ordinance, except an ordinance pertaining to appropriations for the function of the City, or to the issuance of bonds, or the cancellation of bonds or like securities previously issued by the City, may be submitted to the Council by petition.

Any proposed initiative shall be submitted to the Council by a petition signed by registered voters equal to at least ten percent (10%) of the total number of voters casting ballots at the last Regular Municipal Election.

An initiative petition shall be started by no less than five (5) registered voters stating their intentions in writing to the City Clerk.

The City Clerk shall publish said petition and inform the Council that a petition to amend or enact a certain ordinance is to be circulated and that for the Council to hear such a motion, at least ten percent (10%) of the total number of voters casting ballots at the last Regular Municipal Election must sign the petition within sixty (60) days of publication.

Each petition form shall bear the names of the five (5) electors, who, as a committee of petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition there shall be an affidavit of the circulator in accordance with applicable State Law.

The petition shall request the City Council enact said ordinance or set the date for a vote of the people within thirty (30) days of certification by the City Clerk.

The completed petition must be submitted to the City Clerk not later than 5:00 P.M. on the sixtieth (60th) day following publication, or the next normal business day thereafter, for certification.

The City Clerk shall within ten (10) days of submission of the petition, determine whether the petitions are signed by the required number of registered voters and, if sufficient, shall certify the petition. If the petition is insufficient, the Clerk shall forthwith notify in writing the committee and the petition may be amended within ten (10) days. After such amendment, the City Clerk shall within five (5) days

examine the amended petition and attach the certificate of the results. If it is still insufficient, the petition shall be returned to the committee without prejudice to the filing of a new petition.

Upon certification, the City Clerk shall notify the Council which must within thirty (30) days enact said ordinance or set the date of the election. Should the Council choose to call for a vote on the ordinance, a Special Election must be called within sixty (60) days of certification unless a Regular Municipal Election is fixed within ninety (90) days.

The ballot for the initiated ordinance shall list the ordinance by its short title and a brief summary of its content. Additionally, it shall contain the words "FOR THE ORDINANCE" and "AGAINST THE ORDINANCE". The voters at each polling place shall have access to a complete copy of the ordinance as well as a synopsis of the ordinance written in plain unambiguous language.

Any ordinance adopted by this process shall take effect ten (10) days after the election and may not be amended or repealed during the first four (4) years after adoption except by a vote of the people.

If two (2) or more conflicting measures are approved by the people at the same election, then that one which receives the greatest number of "YES" votes shall be adopted in all particulars where there is conflict.

5.19* Referendum. The electors of the City of Trinidad shall have the power of Referendum in accordance with the provisions of this article of the Charter. The referendum shall apply to all ordinances passed by the Council except ordinances fixing the mill levy, the Annual Appropriations Ordinance, or Special Elections.

Any proposed referendum shall be submitted to the Council by a petition signed by registered voters equal to at least ten percent (10%) of the total number of voters casting ballots at the last Regular Municipal Election.

A referendum petition shall be started by no less than five (5) registered voters stating their intentions in writing to the City Clerk.

~~*The City Clerk shall publish said petition and inform the Council that a petition to repeal a certain ordinance is to be circulated and that for the Council to hear such repeal, at least ten percent (10%) of the total number of voters casting ballots at the last Regular Municipal Election must sign the petition within sixty (60) days of publication.~~

*The City Clerk shall publish said petition and inform the Council that a petition to repeal a certain ordinance is to be circulated and that for Council to hear such repeal, at least ten percent (10%) of the total number of voters casting ballots at the last Regular Municipal Election must sign the petition within sixty (60) days of final passage of the ordinance. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 2, 1999.)

Each petition form shall bear the names of the five (5) electors, who, as a committee of petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition there shall be an affidavit of the circulator in accordance with applicable State Law.

The petition shall request the City Council repeal said ordinance or set the date for the referendum within thirty (30) days of certification by the City Clerk.

~~*The completed petition must be submitted to the City Clerk not later than 5:00 P.M. on the sixtieth (60th) day following publication, or the next normal business day thereafter, for certification.~~

*The completed petition must be submitted to the City Clerk no later than 5:00 P.M. on the sixtieth (60th) day following final passage of the ordinance or the next business day thereafter, for certification. (*Amendment approved by a majority vote of the ballots cast at the Regular Municipal Election held on November 2, 1999.)

The City Clerk shall within ten (10) days of submission of the petition, determine whether the petitions are signed by the required number of registered voters and, if sufficient, shall certify the petition. If the petition is insufficient, the Clerk shall forthwith notify in writing the committee and the petition may be amended within ten (10) days. After such amendment, the City Clerk shall within five (5) days examine the amended petition and attach the certificate of the results. If it is still insufficient, the petition shall be returned to the committee without prejudice to the filing of a new petition.

Upon certification, the City Clerk shall notify the Council which must within thirty (30) days repeal said ordinance or set the date of the referendum. Additionally, enforcement and implementation of the ordinance shall be suspended immediately until the matter is resolved. Emergency ordinances shall continue in effect during the referendum process.

Should the Council choose to call for a vote on the referendum, a Special Election must be called within sixty (60) days of certification unless a Regular Municipal Election is fixed within ninety (90) days.

Should the Council fail to act within thirty (30) days of certification by the City Clerk, the ordinance shall automatically stand repealed.

The ballot for the referendum shall list the ordinance in question by number, its short title, and a brief summary of its content. Additionally it shall contain the words "FOR REPEAL OF THE ORDINANCE" and "AGAINST REPEAL OF THE ORDINANCE". The voters at each polling place shall have access to a complete copy of the ordinance that would be repealed.

Any ordinance repealed by referendum may not be re-enacted for a period of one (1) year after the date of the election at which it was repealed.

CHAPTER VI

MANAGER

City Manager

- 6.1 Appointment, Qualifications, Compensation, Service. The Council shall appoint a City Manager, by a majority vote of the City Council and fix his/her compensation. The City Manager shall be chosen on the basis of his/her executive and administrative qualifications with special consideration given to experience and knowledge.
- 6.2 Removal of the City Manager. The City Manager shall be removable at the pleasure of the Council by a majority vote of the City Council. Before the Manager may be removed he/she shall, if he/she desires, be given a written statement of the reasons alleged for his/her removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his/her removal.
- 6.3 Acting City Manager. The City Manager shall designate, with consent and confirmation of Council, immediately upon his/her appointment a qualified administrative City employee to perform his/her duties during his/her temporary absence or disability. Such designation shall be made by letter and filed with the City Clerk. In case the City Manager fails to make such a designation, the City Council may, by resolution, appoint a qualified administrative City employee to perform the duties of City Manager during the absence of the City Manager. In the event the position of City Manager becomes vacant, the City Council may appoint an acting City Manager for not more than one hundred and eighty (180) days.
- 6.4 Annual Evaluation. The City Council shall, annually, evaluate the professional performance of the City Manager. The procedure for such evaluation of the City Manager shall be at City Council's discretion, except that the Council shall give the public the opportunity to provide written comment. The written evaluation of the City Manager shall not be made public. The City Council shall advise the City Manager of the criteria being used for the evaluation.
- 6.5 Powers and Duties of the City Manager. The City Manager shall be the chief administrative officer of the City. He/she shall be responsible to the Council for all City affairs placed in his/her charge by this Charter, the City Council, or by law. He/she shall have the following powers and duties:
- (a) Be responsible for the enforcement of the laws and ordinances for the City;
 - (b) Hire, suspend, transfer and remove City employees for cause, except as otherwise provided in this Charter;
 - (c) Make appointments on the basis of executive and administrative ability, training and experience related to the work which they are to perform;
 - (d) Cause a proposed budget to be prepared annually and submit it to the Council and be responsible for the administration of the budget after its adoption;
 - (e) Prepare and submit to the Council as of the end of the fiscal year a complete report on finances and administrative activities of the City for the preceding year, and upon request of the Council make written and verbal reports at any time concerning the affairs of the City;

- (f) Keep the Council advised of the financial condition and future needs of the City and make such recommendations to the Council for adoption as he/she may deem necessary or expedient;
- (g) Exercise supervision and control over all executive and administrative departments, and recommend to the Council any proposals he/she thinks advisable to establish, consolidate or abolish administrative departments;
- (h) Be responsible for the enforcement of all terms and conditions imposed in favor of the City in any contract or public utility franchise, and upon knowledge of any violation thereof, report the same to the Council for such action and proceedings as may be necessary to enforce the same;
- (i) Attend Council meetings and participate in discussions with the Council in an advisory capacity;
- (j) Establish a system of accounting and auditing for the City which shall reflect, in accordance with generally accepted accounting principles, the financial condition and financial operation of the City;
- (k) Establish, subject to approval by the City Council, appropriate personnel rules and regulations governing officers and employees of the City; and
- (l) Perform such other duties as may be prescribed by this Charter, or by ordinance, or required of him/her by City Council which are not inconsistent with this Charter.

6.6 Council Not to Interfere With Administrative Functions. Neither the Mayor nor any member of City Council shall dictate or interfere with the appointment of, or the duties of any officer or employee of the City, except as expressly provided in this Charter, nor shall any member of the City Council prevent or interfere with any officer or employee of the City in the exercise of his/her judgment in the performance of his/her assigned municipal responsibilities. The Mayor, City Council and its members shall deal with the administrative services of the City solely through the City Manager, and neither the Mayor, Council nor its members shall give orders or reprimands to any employee or subordinate of the City Manager. The City Manager shall be held accountable to the Mayor and City Council for his/her actions and those of his/her subordinates, and the Mayor and City Council retain the prerogative of requiring the City Manager to make verbal or written reports concerning his/her activities, those of his/her subordinates, and the administrative service under his/her charge.

CHAPTER VII

LEGAL AND JUDICIARY

- 7.1 City Attorney, Appointment & Qualifications. The Council shall appoint a City Attorney who shall serve at the pleasure of the Council. He/she shall have been a duly licensed attorney in the State of Colorado for at least two (2) years immediately prior to his/her appointment and shall have been actively engaged in the practice of law in the State of Colorado during such two (2) years. The Council shall fix the compensation of the City Attorney.
- 7.2 Functions. The City Attorney shall be the legal advisor of the Council, the Mayor, the City Manager and any other officers of the City. He/she shall draw all ordinances and other required legal documents and shall perform all such other services as may be required by this Charter, City ordinances or the Council. The City Attorney or other legal counsel retained by or on behalf of the City shall represent the City in any legal proceeding in which the City is a party.
- 7.3 Special Counsel. The Council may upon request of the City Attorney, City Manager, or of the Council itself, employ special counsel if it deems necessary or advisable.
- 7.4 Municipal Judge. There shall be a municipal court vested with exclusive original jurisdiction of all causes arising under the ordinances of the City of Trinidad and may be conferred by law. The municipal court shall be presided over and its functions exercised by a judge appointed by the Council for a specified term of not less than two (2) years. The Council may re-appoint the Municipal Judge for a subsequent term of office which expires on the date of the organizational meeting of the Council after the next Regular Municipal Election. Any vacancy in the office of Municipal Judge shall be filled by appointment by the Council for the remainder of the unexpired term.
- 7.5 Deputy Judges. Council may appoint one or more Deputy Judges as it deems necessary. The Deputy Municipal Judges shall have all the powers of the Municipal Judge when called upon to act by the Municipal Judge or the Council. In the event that more than one Municipal Judge is appointed, the Council shall designate a presiding Municipal Judge, who shall serve in this capacity during the terms for which he/she was appointed.
- 7.6 Qualifications. The Council shall set the qualifications for the position of Municipal Judge. These qualifications shall be reviewed and updated from time to time as determined by Council.
- 7.7 Compensation. The Municipal Judge shall receive a fixed salary or compensation set by Council which salary or compensation shall not be dependent upon the outcome of the matters to be decided by the Municipal Judge. The Deputy Municipal Judge may receive such compensation for services rendered as Council may determine.
- 7.8 Removal. Any Municipal Judge may be removed during his/her term in office only for cause. A judge may be removed for cause if:
- (a) He/she is found guilty of a felony or any other crime involving moral turpitude;
 - (b) He/she has a disability which interferes with the performance of his/her duties, and which is, or is likely to become of a permanent character;

(c) He/she has willfully or persistently failed to perform his/her duties; or

(d) He/she is habitually intemperate.

7.9 Fines and Fees. The Council shall adopt, by ordinance, the maximum amount of fines, fees and contempt of court charges to be levied by the municipal court. These fines, fees and contempt of court charges shall be reviewed on a periodic basis by Council.

CHAPTER VIII

BOARDS AND COMMISSIONS

- 8.1 Existing Boards and Commissions. All Boards and Commissions existing at the time this Charter is adopted shall continue as established by ordinance, except as otherwise provided by this Charter.
- 8.2 Right to Establish, Amend and Abolish. The Council may create any board or commission including corporate, advisory, and appeal boards, provided that no such board or commission shall have the authority to perform functions or duties otherwise assigned in this Charter or to interfere with any function or duty of any individual or department or other provision of this Charter. Advisory boards may be created by resolution, but all other boards and commissions shall be created by ordinance unless otherwise expressly required by law, ordinance, or this Charter. The Council shall prescribe as part of the ordinance or resolution the duties, responsibilities, terms of office, membership, and other appropriate designations of the board or commission. Each board or commission shall operate within its own officers, keep its own records, and set its own meeting arrangements except as otherwise directed by the Council or this Charter. All meetings shall be public meetings except as expressly permitted by action of the Council or unless required to be closed by law, ordinance, or this Charter. A copy of all minutes, records, and proceedings shall be filed with the City Clerk unless the record is required to be restricted by law, ordinance, or this Charter. The Council may require such reports from the various boards and commissions as it desires.

The Council may increase, reduce, or alter any or all of the duties and procedures of any board or commission existing at the time of the adoption of this Charter, or as thereafter created by ordinance or resolution unless otherwise established by this Charter.

Any board or commission existing at the time of the adoption of this Charter, and which is not required by statute or this Charter, may be abolished at any time by the Council.

- 8.3 Composition of Boards or Commissions. Initial appointments by the Council to any board or commission shall specify the term of office of each member in a manner which will ensure the overlapping of terms. All appointments or reappointments thereafter shall be made for the full term provided in the enabling law, ordinance, resolution, or this Charter.

Members of boards and commissions shall serve without compensation, but shall be reimbursed for authorized expenses actually incurred in the discharge of their official duties. Vacancies on boards and commissions shall be filled by appointment by the Council for the remainder of the unexpired term. In the event that an unexpired term is for a period of less than six (6) months, the Council may appoint a replacement for the regular term plus the unexpired portion of the vacated term. Members of boards and commissions shall be subject to removal for just cause by a majority vote of the Council.

Eligibility for membership on a board or commission shall extend to those residents of the City who have resided within the City for a period of not less than one year immediately preceding appointment, and who are registered to vote. Any person who has been a resident of any area annexed to or consolidated with the City for the required period of time prior to annexation or consolidation and who is otherwise qualified shall be eligible for membership on boards and commissions. In the event that specific skill or knowledge is required for the proper function of a board or commission and is not possessed by a qualified resident of the City, the Council may by majority vote appoint a non-resident, who is technically qualified, to any board or commission as an ex-officio, non-voting member. In the

event that a board or commission may have responsibilities or duties which affect certain areas outside the City limits, the Council may appoint qualified residents of the affected area to that board or commission; provided, that the majority of the voting members of such board or commission shall always be residents of the City.

8.4 Planning, Zoning and Variance Commission.

(a) There shall be, and hereby is, created a Planning, Zoning and Variance Commission to serve as a commission of the City in relation to all matters pertaining to the physical development of the City of Trinidad.

(b) The Planning, Zoning and Variance Commission shall consist of not less than five (5) nor more than nine (9) members to be selected and appointed by the Council. The Council shall not appoint members of its own body.

(c) The Planning, Zoning and Variance Commission shall be responsible for the preparation and promulgation of regulations concerning the subdivision of land; shall prepare, adopt, and enforce compliance with a master street plan for the City and its environs; shall prepare, amend, and submit a comprehensive development plan for the City and its environs to the Council for adoption; shall review all subdivision plats and zoning requests and make recommendations prior to submitting same to the Council for action; and shall hear and decide requests for variance from any zoning or planning ordinance of the City, subject to the right of appeal to the Board of Appeals as set forth in Section 8.5.

(d) Where not otherwise provided in this Charter or by ordinance, the Planning, Zoning and Variance Commission shall have the powers, perform the functions, and follow the procedures set forth in the statutes and laws of the State of Colorado or of the United States.

8.5 Board of Appeals. The Council may establish a Board of Appeals. The Board of Appeals shall consist of not less than three (3) members and no more than five (5) members appointed by Council. Council shall not appoint members of its own body. Until the Council shall otherwise provide, it shall act as a Board of Appeals and in that capacity shall hear and decide appeals by any person relating to variances or to building inspection and it shall have power to provide rules and regulations for procedure upon such appeals.

8.6 Park and Recreation Advisory Board. A Park and Recreation Advisory Board shall be established by Council which shall have not less than five (5), nor more than seven (7) members who shall be appointed by Council. The Park and Recreation Advisory Board shall develop a master plan and overview of all of the Parks and Recreational Facilities owned by the City and submit this plan to Council on an annual basis. Additional duties, obligations, responsibilities, terms of office, qualifications of membership, functions of the board and other matters relating to its operations shall be designated by ordinance of the City Council. The Council may elect to lease or contract the operations of City Recreational facilities. In the event that Council opts to lease or contract said services, the contractor or lessee shall submit an annual budget to Council. No complimentary gratuities/memberships to public facilities shall be given to or accepted by any employee of the City of Trinidad or Elected Official of the City of Trinidad.

8.7 Liquor Authority. The power to regulate, control or prohibit sale, exposure for sale, barter, exchange, giving away or manufacture of any spirituous, vinous, malt, fermented, distilled, alcoholic, or any

intoxicating liquors, is hereby reserved to the people of the City of Trinidad, to be exercised by them through the City Council by ordinance.

A Liquor Authority Board may be established only by affirmative vote of the people at a regular municipal election of the City of Trinidad. Upon affirmative vote of the people, Council shall appoint five (5) members to said board. Council shall not appoint any member of its body or any person or persons that hold, maintain or is otherwise involved in the business of alcohol.

CHAPTER IX

BUDGET CONTROL AND FINANCING

- 9.1 Fiscal, Budget and Accounting Year. The budget, fiscal and accounting year shall be the same as the calendar year.
- 9.2 Annual Budget Estimates. On or before the first day of August the City department heads shall submit a proposed budget for the next ensuing budget year. On or before the first Tuesday in October of each year the City Manager shall submit to the Council a proposed budget for the next ensuing budget year with an explanatory message. The proposed budget shall provide a complete financial plan for the City, prepared in accordance with accepted accounting principles, and shall include the following:
- (a) Proposed expenditures for each office, department and agency for the ensuing fiscal year;
 - (b) Debt service requirements for the ensuing fiscal year;
 - (c) An estimate of the amount of anticipated income from all sources during the ensuing fiscal year, including estimated cash surplus at the end of the current year;
 - (d) A general budget summary which will show each fund's estimated revenues by source, and estimated expenditures by organization units, activities, character, and object. The budget shall be so arranged so as to show comparative figures for receipts and expenditures for the last completed fiscal year, for the current year, and the City Manager's recommendations for the ensuing year.
- 9.3 Capital Budget Estimates. As a part of the budget message or as a separate report attached thereto, the City Manager shall also present a program of proposed capital projects for the ensuing year and the four (4) fiscal years thereafter. Estimates of the cost of such projects shall be submitted together with suggested methods of financing the same. In such proposed programs, the City Manager shall include those projects previously considered by the Planning Commission, but he/she may recommend the omission or deferment of projects proposed by the Planning Commission, giving the reasons therefore. In order to facilitate the carrying out of the capital budget plan the Council may create a capital budget fund. Monies may be appropriated to this fund directly or by transfer from the general fund, and may be accumulated, invested, and expended only for capital projects, including the purchase of land, buildings, or equipment and the construction or improvement of public works.
- 9.4 Public Record, Hearings. The aforesaid annual budget and capital budget estimates shall be a public record and open to the public for inspection. The Council shall, within fourteen (14) days after the filing of said budget estimates, set a time for individual public hearings on the annual budget and capital budget estimates. These hearings may be held on the same day. Council shall cause notice of such public hearings to be given by publication. At the hearings all persons may appear and object to any or all items and estimates in the proposed budgets. Upon completion of the public hearing the Council may revise the budget estimates.
- 9.5 Adoption of Budget. After said public hearing and before the last day of December in each year, the Council shall pass the "Annual Appropriation Ordinance" in which shall be appropriated such sums of money as the Council deems necessary to defray all expenses and liabilities of the City during the ensuing budget year. The annual appropriation ordinance shall be based upon the budget as adopted

but need not be itemized further than by departments and the major divisions thereof, and by each independent office and agency. Upon final adoption the budget shall be in effect for the budget year.

- 9.6 Lapsed Appropriations. All appropriations unexpended or unencumbered at the end of the budget year shall lapse to the applicable general or special fund.
- 9.7 Budget Limitation, Appropriation of Excess Revenues and Transfer of Appropriations. The City's expenditures in any one year shall not be exceeded in any fund above the amount provided for in the annual budget. The City Council, however, may enact by ordinance a supplemental budget for any fund indentifying any previously unanticipated source of revenues and projected additional expenditures. In any one year the amount provided in the annual budget to be paid out of the general and special funds so budgeted, shall be maintained and used for the particular purposes specified in the budget ordinance. During the budget year, the City Council may, by resolution, transfer and appropriate any unused balance of any general fund appropriation or portion thereof from one department or agency to another. Transfers of monies from one fund to another shall only be made by ordinance and shall constitute a budget amendment. Such amendments shall be a public record.

Financial Administration.

- 9.8 **Department of Finance.** The Director of Finance shall have charge of the financial records and general and special funds of the City and shall collect, receive, and disburse all money belonging to the City, and shall have all other duties required to properly administer the financial affairs of the City including:
- (a) Maintain a general accounting system and exercise budgetary control over the same in accordance with the budget;
 - (b) Audit all bills, claims and charges against the City before payment;
 - (c) Advise the City Manager of the budget requirements of the Department of Finance and furnish estimates and information concerning other departments, agencies and boards as requested by the City Manager;
 - (d) Advise departments of remaining allotments;
 - (e) Collect and hold all City funds and invest such funds as directed by the Council by resolution;
 - (f) Serve as custodian of all bonds, documents, and other evidence of indebtedness owned by the City or under its control;
 - (g) Collect or receive funds of every description belonging to, due to or accruing to the City;
 - (h) Submit to the Council through the City Manager a monthly budget report sufficiently itemized in detail to show the exact financial condition of the City;
 - (i) Advise the City Manager of any financial irregularities in any department.
- 9.9 **Separate Utilities.** The accounts of each utility owned and operated by the City shall be kept separate and distinct from all other accounts of the City. Loans from the utility funds to other City departments shall be allowed, but, only upon a vote of the City Council. Said vote will require a two-thirds (2/3) majority of City Council for passage. All loans will require a term to be specified and an interest rate equal to the average return of City investments for the preceding twelve (12) months before the loan is made. The interest rate shall be adjusted annually.
- 9.10 **General Fund Expenditures.** A general fund is hereby created which shall consist of all revenues of the City not specifically belonging to any special fund. The governmental functions of the City shall be paid for out of appropriations from the general fund.
- 9.11 **Special Fund Expenditures.** Special funds may be created for any purpose by ordinance. Any ordinance creating a special fund shall also specify the source of revenue and the purpose and manner of expenditure.
- 9.12 **Responsibility of Funds.** All money received by and in the custody of City employees shall be paid daily to the Department of Finance.
- 9.13 **Deposit of Public Funds.** The cash balances of the City shall be deposited in such a manner as the Council, by resolution, shall determine and with such security as the Council shall, by resolution,

require; but nothing herein contained shall make the Council, or any member thereof, or the Director of Finance, personally liable to the City for loss of any funds so deposited.

- 9.14 Investments. Monies remaining in any fund may at the discretion of the Council be invested in one or more of the securities permitted by the statutes of Colorado governing investments of public funds, or in bonds payable out of the revenues of any service or facility furnished by the City; or in general obligation or revenue bonds of the City. Interest on such investments shall be credited to the fund to which the invested money belongs, if such can be determined, otherwise to the general fund of the City. The Council, or any member thereof, or the Director of Finance shall not be personally liable to the City for any loss incurred through the investment of any funds as herein provided.
- 9.15 Audit and Payments. No demand for money against the City shall be approved, allowed, audited, or paid unless it is in writing, dated and sufficiently itemized to identify the expenditure, and payment thereof approved in writing by the Director of Finance and the person or department creating the obligation.
- 9.16 Reports and Publications. The Council shall provide for an independent audit at least annually by an independent certified public accountant of all books and accounts of the City and shall publish a summary thereof once in the manner provided for publication of legal notices within six (6) months after the end of each fiscal year. Copies of such audit shall be available at the office of the City Clerk for public inspection.
- 9.17 Availability of Receipts and Disbursements. The finance officer shall make available at the office of the Finance Director for public inspection a list of the warrants or checks issued for the previous month, stating the name of the person, firm or corporation to whom issued, amount thereof, and showing separately the warrants or checks payable out of each fund. Said list shall also be published monthly.
- 9.18 City Not To Pledge Credit. The City shall not lend or pledge its credit or faith directly or indirectly, in any manner to or in aid of any person, corporation, or any other organization, public or private for any amount or any purpose whatever, or become responsible for any debt, contract or liability thereof except for municipal purposes.
- 9.19 Appropriations Not to Exceed Revenue. No appropriations shall be made, nor any expenditure incurred or authorized by the Council, whereby the expenditures during the budget year shall exceed the revenues anticipated or available.

Purchasing.

- 9.20 Competitive Bidding. All purchases of or contracts for supplies, material, or equipment shall be made under such rules and regulations with respect to competitive bidding as the Council may prescribe.
- 9.21 Emergency Purchases. In case of emergency affecting the public peace, health, or safety, the Council may waive all provisions for competitive bidding and direct the Purchasing Agent to purchase necessary supplies in the open market at not more than commercial prices.
- 9.22 Participation of Officers and Employees Interested in Contracts. No elected official, appointed officer, or employee of the City shall be financially interested, directly or indirectly, in the sale of any land, material, or supplies to the City in excess of five hundred dollars (\$500.00) except be it by competitive bidding. In cases of emergency necessary to protect public health, safety, and welfare, competitive bidding may be waived.
- 9.23 Purchases and Contracts for Improvements. City Council shall set, by ordinance, the monetary amount for which any City purchases or contract for improvement shall be submitted for competitive bidding and awarded on the basis of what, in the judgment of Council is the lowest bid that meets specifications.

The successful bidder may be required to provide a performance bond. If no bids are received or if, in the opinion of the Council, all bids received are too high, the City may enter into negotiations concerning the contract. No negotiated price shall exceed the lowest responsible bid previously received.

- 9.24 Contracts Effective Only When Bond Funds Available. No contract for the acquisition of property or the construction of improvements or other expenditures which is to be financed by bonds or other obligations shall be effective until the proceeds of the bonds or obligations are actually in the hands of the Director of Finance. Improvements to be paid for by special assessments shall be excepted from the provisions of this section.

CHAPTER X

MUNICIPAL BORROWING

Municipal Borrowing.

- 10.1 Forms of Borrowing. The City may borrow money and issue the following securities to evidence such borrowing: Short-term notes; General obligation bonds and other like securities; Revenue bonds and other like securities; and Local improvement bonds and other like securities.
- 10.2 Limitation on Indebtedness. The aggregate amount of bonds or other evidences of indebtedness will not exceed twenty percent (20%) of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for City purposes.
- 10.3 Bonds Limited to Life of the Project. The ordinance authorizing the issuance of general obligation or revenue bonds or other such securities shall state the estimated period of usefulness of the property or improvement for which issued and the term of any such bonds shall not exceed such estimated period. No bonds shall be issued for a term longer than thirty (30) years from the date thereof.
- 10.4 Bonds, Interest, Sale. The terms and interest rate of general obligation or revenue bonds or other like securities shall be fixed by the authorizing ordinance and such securities shall be sold at public or private sale for cash and in all cases to the best advantage of the City, but any funding bond or other funding security or any refunding bond may be exchanged respectively dollar for dollar for a short-term note anticipation warrant, or other interim funded security for a bond refunded. All bonds or other securities may contain provisions for calling the same for prior redemption at a designated time or times prior to the fixed maturity date or dates.
- 10.5 Local Improvements. The power to create local improvement districts to assess the cost of the construction of public improvements of a local and municipal character or any part thereof against benefited property therein, and to issue local improvement bonds is vested in the City Council.

CHAPTER XI

UTILITIES AND FRANCHISES

- 11.1 Council Shall Have All Powers Over Utilities and Franchises. The Council shall have 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. The right of the City to construct, purchase, or condemn any public or private utility work or way, shall not be abridged. Except as otherwise required by this Charter or ordinance, the Council shall exercise all powers and authority concerning the granting, amending, revoking or otherwise dealing in franchises.
- 11.2 City Shall Have Authority to Construct, Purchase, Acquire and Lease. The City shall have the authority to construct, purchase, acquire, and lease public and private utilities and their assets, equipment, and property in whole or in part both within and outside of the City limits for the use of the City and its inhabitants.
- 11.3 Utility Franchise Granted Only by Ordinance. Grants of public utility franchise and all extensions and amendments shall be made only by ordinance; provided, however, that the provisions of this Charter, and, if required, by the Constitution or applicable statute of the State of Colorado, shall be submitted to the electorate for approval.
- 11.4 Payment for Election. If such election is required, the individual, firm or corporation requesting shall pay such election costs as are necessary and the individual, firm, or corporation shall file a statement of acceptance of all rules, regulations, ordinances, and terms established for such utility by the Council.
- 11.5 Length of Franchise Limited to Fifteen Years. No franchise or privilege shall be granted which exceeds fifteen (15) years. Every grant of a franchise shall fix the amount and manner of payment of compensation to be paid by the grantee for the use of the same. Such compensation shall be paid to the City as provided by ordinance and shall be subject to periodic review and renegotiation as provided in the granting ordinance. Failure on the part of the utility to honor the compensation commitment shall result in the forfeiture of the franchise at the option of the Council. This provision shall not exempt the utility from any lawful taxation upon its property, nor from any license, charges, fees, or other lawful impositions levied by the City.
- 11.6 City Can Regulate the Rates for Cable Television. The City shall have the right to regulate the rates charged by any cable television franchisee to the full extent permitted under Federal Law.
- 11.7 No Assignments Without Consent. Assignment or leasing of a franchise shall be considered a forfeiture unless consent is given by the Council by appropriate action.
- 11.8 Municipally Owned Utilities are Regular City Departments. All municipally owned or operated utilities shall be operated as regular departments of the City under the same supervision and control exercised by the City Manager as with all other departments, offices, and agencies of the City.
- 11.9 Municipally Owned Utilities are Enterprises. The natural gas, electric, sewer and water utilities owned by the City are determined to be government owned businesses and are therefore enterprises, as the term "enterprises" is defined in Article X, Section 20(2)(d) of the Colorado Constitution. Accordingly,

such municipally owned utilities are exempt from the provisions of Article X, Section 20 of the Colorado Constitution.

- 11.10 City Shall Not Sell, Lease, or Discontinue Current Utilities Without an Election. The City shall not sell, lease or discontinue operation of the natural gas, electric, sewer or water utilities it owns and operates unless such sale, lease or discontinuance of operation be approved by a vote of the people.
- 11.11 Current Franchises Remain in Effect. All franchises to which the City is a party when this Charter shall become effective shall remain in full force and effect in accordance with their respective terms and conditions until amended, modified or superseded by appropriate action by the Council as provided in this section.
- 11.12 City Can Permit Joint Use. Every public utility may be required by the City to permit joint use of its property and appurtenances located in the streets, alleys, public places, property of the City, or utility easements, by the City and by the utilities, insofar as such joint use may be reasonably conducted without detrimental effect upon the utility or the City. Every public utility, whether or not is has a franchise, shall pay such part of the cost of improvements, repairs, and maintenance as shall arise from its use, and shall hold the City harmless from all damages arising therefrom.
- 11.13 City Clerk to Maintain Franchise Records. The City Clerk shall cause an indexed franchise record to be kept in his/her office which shall include copies of all franchises.

The index shall contain such appropriate information in relation to the grantee, the operations, the applicable filed tariffs, and other information, as the City Clerk may determine as necessary or the Council shall require.

- 11.14 Temporary Permits. The Council may grant a permit at any time for the temporary use or occupation of any street, alley or City owned property; provided, however, that such permit shall be revocable by the Council at its pleasure, regardless of whether or not such right to revoke is expressly reserved in such permit. Such temporary permit shall carry with it the same obligations imposed by subparagraph 11 of this section.

CHAPTER XII

GENERAL PROVISIONS

- 12.1 Invalidity of Part. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, article or part of this Charter, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Charter. The effect thereof shall be confined to the specific clause, sentence, paragraph, section, article or part of this Charter so adjudged to be invalid or unconstitutional.
- 12.2 Definitions. As used in this Charter the following words and phrases shall have the following meanings:
- (a) Appropriation. The authorized amount of funds set aside or allocated for expenditure during a specified time and for a specified purpose.
 - (b) Ballot. Not limited to a piece of paper, but may include any mechanical means such as voting machines, through which a voter expresses and records his/her choice thereon.
 - (c) City. The City of Trinidad, Colorado, a municipal corporation.
 - (d) Council. The City Council of the City of Trinidad.
 - (e) Employee. Any person in municipal service who is not an officer.
 - (f) Franchise. A special privilege granted by the City permitting the continuing use of public property such as City streets.
 - (g) May. Construed as permissive.
 - (h) Officer. Any person who is elected to office or appointed by Council, including appointees to boards and commissions.
 - (i) Person. Is intended to have a broad definition not limited to such as is herein enumerated but to include at least the following: individual, corporation, association, political subdivision, state agency, singular or plural of each.
 - (j) Publication. Publication in any legal newspaper having a general circulation in the City.
 - (k) Public Utility. Public utility or public utility corporations shall mean any person, firm or corporation operating waterworks, light plants, telephone systems, power plants, transportation systems, heating plants, CATV and other television distribution systems, and any other public utilities or works or ways, in whole or part for use of said City and the inhabitants thereof. It shall not include any person, firm or corporation owning or operating sidetracks or switches for the accommodation of manufacturing plants and business houses, or private telephone lines, and shall not include municipally-owned utilities.
 - (l) Qualified Taxpaying Elector. Any qualified elector who in the twelve (12) months last preceding the election at which the vote is offered shall have paid a property tax on property in the City of Trinidad.

(m) Qualified Elector. A resident of the City who is qualified to vote under the Constitution and Statutes of the State of Colorado.

(n) Regular Election. The municipal election held every two (2) years at which candidates for elective offices of the City are voted upon.

(o) Shall. Construed as mandatory.

(p) Statutes. The applicable laws of the State of Colorado as they now exist or as they may be amended, changed, repealed or otherwise modified by legal procedure.

- 12.3 Intergovernmental Agreements. The Council by majority vote may join with or participate in formation of associations, authorities, or other legal entities, and enter into joint exercise of powers, agreements, or other cooperative arrangements with other governmental units of every kind and character for the joint use of buildings, equipment and facilities, or for the furnishing, purchasing, or receiving commodities, electricity, water, gas, other products of every kind and character, or services, and may commit financial, property, and personnel resources under the terms of any such arrangement.
- 12.4 Emergency Preparedness. The Council shall appoint a Director of Emergency Management for the City of Trinidad. The Director shall prepare, at the direction of Council, a Local Emergency Operations Plan. The plan shall follow the Model Operations Plan as provided by the Department of Local Affairs, Office of Emergency Management. This plan shall be promulgated within one year of adoption of this Charter. Upon promulgation, the City shall have the authority to incur indebtedness or borrow money in the event of a declared disaster as specified by the Local Emergency Operations Plan.
- 12.5 Residency Requirement. The City Council may establish residency requirements for officers and employees of the City.
- 12.6 Rights to Organize and Bargain Collectively. All permanent/fulltime employees in the service of the City of Trinidad, with the exception of those in supervisory positions, shall have the right to bargain collectively with the City of Trinidad and to be represented by an employee organization in such collective bargaining respecting wages, rates of pay, hours, benefits, grievance and disciplinary procedures which may result in arbitration, working conditions and all other terms and conditions of employment, except that employees in the service of the City of Trinidad shall not be permitted to bargain in regard to disciplinary measures and the application thereof to individual employees, provided that the application thereof to individual employees may be grieved according to the grievance procedures contained in a collective bargaining agreement. Both parties will bargain in good faith.
- 12.7 Economic Development. The Council shall encourage economic development by providing innovative, creative and flexible inducement packages to potential industries or businesses seeking to establish, locate, or relocate in Trinidad. The offering of such packages shall be based on feasibility studies, benefit to expense ratios, and the opportunity for creation of new jobs.
- 12.8 Adoption of Codes by Reference. Standard Codes, promulgated by the Federal Government, the State of Colorado, or any agency of either, or by any municipality within the State of Colorado, or by recognized trade or professional organizations, or amendments or revisions thereof may be adopted by reference, providing the publication of the adopting ordinance shall advise that copies of the Code to be adopted by reference are available for inspection at the office of the City Clerk and providing that

any penalty clause in said Codes may be adopted only if set forth in full and published in the adopting ordinance.

12.9 Amendment of Charter. This Charter may be amended at any time, in the manner provided by Article XX of the Constitution of the State of Colorado.

Nothing herein contained shall be construed as preventing the submission to the people of more than one charter amendment or measure at any one election.

If there is any conflict or inconsistency between amendments voted upon at the same election and more than one be adopted, then the amendment receiving the largest number of votes shall prevail.

CHAPTER XIII

TRANSITIONAL PERIOD

- 13.1 Status of Transitional Provision. The purpose of this article is to provide for an orderly transition from the present City government to a Home Rule Government under the provisions of this Charter. This article shall constitute a part of this Charter during the transition period.
- 13.2 Transition Period. The effective date of this Charter shall be January 10, 1994. The period from the effective date of this Charter to July 1, 1994, shall be known as the "transition period." During this period all officers and employees shall continue as such, except as otherwise provided in this Charter and shall proceed with due diligence to put into effect the provisions of this Charter. During the transition period the Council shall designate by resolution any provisions of the Charter not to be operative and shall fix the dates on which such provision becomes operative. The State statutes shall be in effect as to inoperative provisions until such provisions become operative.
- 13.3 Prior City Legislation. All by-laws, ordinances, resolutions, rules and regulations of the City which are not inconsistent with this Charter and which are in force and effect at the date of effective date of this Charter shall continue in full force and effect until repealed or amended. Those provisions of any effective by-law, ordinance, resolution, rule or regulation which are inconsistent with this Charter are hereby repealed.
- 13.4 Local Improvements. Local improvements not completed on the effective date of this Charter shall be governed, until completed, by the ordinance under which they were commenced.
- 13.5 Present Appointed Board and Commission Members to Continue in Office; Exceptions. The present appointed members of boards and commissions of the City shall continue to serve and carry out the functions, powers and duties as such until expiration of their respective terms and the appointment of their successors, except that the terms of all members of any board or commission abolished pursuant to the provisions of this Charter, shall expire on July 1, 1994.
- 13.6 The Budget. Those portions of Chapter IX, concerning preparation and submission of the budget and capital program shall become effective for the 1995 budget.
- 13.7 Saving Clause. This Charter shall not affect any suit or action pending in any court or any document heretofore executed in connection therewith. Nothing in this Charter shall invalidate any existing contracts between the City of Trinidad and individuals, corporations, or public agencies.

CERTIFICATE OF FINAL ADOPTION

We, the undersigned, present members of the City of Trinidad Home Rule Charter Commission, duly elected by the people of Trinidad, Colorado at a special election held April 13, 1993, under authorization of Article XX, Constitution of the State of Colorado, to frame a Home Rule Charter for the City of Trinidad, do hereby certify that the foregoing is the proposed Charter as finally approved and adopted by members of the Commission on the 9th day of August, 1993, for submission to the people of Trinidad at a regular municipal election to be held November 2, 1993.

Signed in triplicate at Trinidad, Colorado, this 9th day of August, 1993.

Pete Deluca, Chairman
Mark J. Ritz, Vice-Chairman
Lori M. Hoffman, Secretary

Robert Arko
Herman L. Corley
Glenn T. Davis
Marie George
George Hadad
Clayton Marquez
Ted Frank Martinez
Brett S. Plant
Carmen Sandoval

David J. Barrack
James T. Costin
Loretta J. Day
James G. Gould
Beatrice Klodzinski
Barry Marshall
James C. Perri
Penny Rasumoff
Robert Sandoval

