



**CITY OF TRINIDAD
TRINIDAD, COLORADO**

The City Council of the City of Trinidad, Colorado,
will hold a special Work Session on Tuesday, June 3, 2014 at 5:30 P.M.
in City Council Chambers at City Hall, Third Floor, City Hall

AGENDA

1. Review of top ten priorities
2. Discussion regarding retail marijuana licensing



CITY OF TRINIDAD, COLORADO
1876

Council Communication

City Work Session:
Prepared:
Dept. Head Signature:
of Attachments:

June 3, 2014
May 30, 2014

1

SUBJECT: Review of Top Ten Priorities

Presenter: Tom Acre, City Manager

Recommended City Council Action: This item is for City Council and Staff discussion. No formal action is requested.

Summary Statement: In January and March 2014, City Council developed a priority list of things they want to accomplish. Included in the priority list was the development of a project matrix with City Council input on what projects they wanted to follow. These are tools City Council and staff can use to track the status and progress of various projects. Council in reviewing the project matrix at the May 27th Work Session expressed desire to review the top ten priorities.

Expenditure Required: No expenditure is required at this time.

Source of Funds: No applicable.

Policy Issue: Communication and updates for City Council regarding projects.

Alternative: Council could request information be communicated in a different format.

Background Information: See summary above and attachment.

Trinidad City Council Priority Setting January 14 and March 11, 2014

Outcomes

Trinidad City Council's 2014 Highest Priorities

FIRST TIER PRIORITIES

1. Marijuana (6)
 - Complete permitting/application process for medical marijuana
 - Ordinance for recreational/retail marijuana
 - Ordinance for grow facilities – export
 - Ballot initiative for additional local sales tax

2. Building Codes (6)
 - Main Street Architect Consult/Tim Stroah work session
 - Revise Building Codes – allowance for historic buildings
 - Revise Building Codes – encourage renovation (cost effective investment)
 - Local Historic Register
 - Become CLG (Certified Local Government) – Local Registration of Historic Buildings
 - Map contributing buildings to El Corazon Historic District

3. Gambling (5)
 - Explore potential to bring to town

4. Annexation (4)
 - Complete Southern Annexation
 - Explore other area (N Linden, East Main)

Outcomes
Trinidad City Council's 2014 Highest Priorities

SECOND TIER PRIORITIES

5. City/County Issues (2)
 - Work with Las Animas County
 - Solve Issues with BOCC
 - Work with County on CNG

6. URA (2)
 - Re-establish

7. Economic Development (2)
 - City and County Economic Development/Tax Incentives
 - Business Retention Program
 - TLACEDC Funding
 - TLACEDC Executive Director
 - Save the SW Chief Rail
 - Support Main Street Program
 - Support Colorado Creative Districts Program

8. Hiring for Positions (2)
9. Develop Project Matrix (2)
 - Publish on City web site

10. Trained Workforce (2)
 - Work with TSJC on workforce development
 - Work toward having a more trained workforce



CITY OF TRINIDAD, COLORADO
1876

COUNCIL COMMUNICATION

2

CITY COUNCIL MEETING: June 3, 2014
PREPARED BY: Les S. Downs
DEPT. HEAD SIGNATURE:
OF ATTACHMENTS: 1

SUBJECT: Discussion regarding retail marijuana licensing, and discussion of the proposed ordinance therefore.

PRESENTER: Les Downs, City Attorney

RECOMMENDED CITY COUNCIL ACTION: Provide input on the proposed ordinance.

SUMMARY STATEMENT: The proposed ordinance would allow for the sale of retail marijuana in the corporate City limits

EXPENDITURE REQUIRED: No

SOURCE OF FUNDS: N/A

POLICY ISSUE: The current moratorium is set to expire. Therefore it either needs to be extended or regulations need to be established.

ALTERNATIVE: Extend the moratorium

BACKGROUND INFORMATION:

- City Council instructed staff to work on an ordinance to allow retail marijuana in the corporate City limits.
- The current moratorium on retail marijuana is set to expire on June 30, 2014.
- A questionnaire has been provided to Council to assist with providing necessary input and discussion points. Two of the questionnaires have been returned to staff.
- Among other points to consider are how to assess a fee for the “exporting” of retail marijuana that would be cultivated here. Two possible ways of doing that would be to assess a fee based on the square footage of a facility, or to assess a fee per pound of marijuana as it is transported from the Trinidad cultivation facility.
- All other considerations are going to need to be discussed and decided upon. Also, if necessary, the moratorium could be extended for a period of time beyond June 30th.
- From the work session discussion held on May 27th, staff has proposed language choices within the body of the ordinance (attached).

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CITY OF TRINIDAD, COLORADO

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD,
COLORADO, ESTABLISHING REGULATIONS AND LICENSING
REQUIREMENTS FOR RECREATIONAL MARIJUANA BUSINESSES

WHEREAS, at the November 6, 2012, general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution ("Amendment 64") which is codified as Article XVIII, § 16 of the Colorado Constitution; and

WHEREAS, Amendment 64 permits persons twenty-one years of age and older to possess, use, display, purchase or transport one ounce or less of marijuana, or marijuana accessories, to grow limited amounts of marijuana and manufacture and sell marijuana accessories; and

WHEREAS, Amendment 64 also provides for the establishment of marijuana establishments, which include cultivating, testing and product manufacturing facilities, and retail marijuana stores; and

WHEREAS, Amendment 64 required that the Colorado Department of Revenue adopt regulations to implement Amendment 64; and

WHEREAS, the City of Trinidad imposed a moratorium until June 30, 2014, on the submission, acceptance or processing of applications and the licensing, permitting, establishment or operation of any recreational marijuana business that sells, cultivates, manufactures, prepares, packages, purchases, tests, or otherwise provides for or allows the use of marijuana or marijuana products pursuant to Amendment 64, including the use of land for such purpose or purposes, to allow reasonable and necessary time for the City to develop its own licensing scheme for marijuana establishments and to have an opportunity to investigate, develop, adopt and implement, and if necessary amend regulations it deemed appropriate to regulate recreational marijuana businesses as necessary to protect the public's health safety, and welfare.

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

Section 1. Article 12, Chapter 14, is hereby repealed and re-enacted in its entirety as follows:

CHAPTER 14

ARTICLE 12. MARIJUANA LICENSING AUTHORITY – RETAIL

14-222. Definitions.

As used in this ordinance, the following words shall have the following meanings, unless the context clearly requires otherwise. In addition, the other defined terms in Amendment 64 are incorporated herein by reference. Other terms used in this Article shall have the meaning

ascribed to them in Article XVIII, Section 14, of the Colorado Constitution or in the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, or in Article 11 of this Chapter, and such definitions are hereby incorporated into this Article by this reference.

(a) “Applicant” means any person or entity who has submitted an application for a license or renewal of a license issued pursuant to this Article. If the applicant is an entity and not a natural person, applicant shall include all persons who are the members and managers of such entity.

(b) “Colorado Medical Marijuana Code” means Title 12, Article 43.3 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

(c) “Colorado Retail Marijuana Code” means Title 12, Article 43.4 of the Colorado Revised Statutes, as amended from time to time, and any rules or regulations promulgated thereunder.

(d) “Consumer” means a person twenty-one (21) years of age or older who purchases marijuana or marijuana products for personal use by a person twenty-one (21) years of age or older, but not for resale to others.

(e) “Cultivation” or “Cultivate” means the process by which a person grows a marijuana plant.

(f) “Dual Operation” means a business that operates as both a licensed medical marijuana business and a licensed marijuana store in accordance with Article 11 of this Chapter.

(g) “Industrial Hemp” means the plant of the genus cannabis and any part of such plant, whether growing or not, with a Delta-0 tetrahydrocannabinol concentration that does not exceed three-tenths percent on a dry weight basis.

(h) “Good Cause” (for the purpose of refusing or denying a license or license renewal under this Article) means: (1) the licensee has violated, does not meet, or has failed to comply with any of the terms, conditions or provisions of the Article, of the Colorado Retail Marijuana Code or of any rule and regulation promulgated pursuant to this Article or the Colorado Retail Marijuana Code; (2) the licensee has failed to comply with any special terms or conditions that were placed on its license or facility, whether state or local, or in prior disciplinary proceeds or that arose in the context of potential disciplinary proceeds; or (3) the licensee’s retail marijuana establishment has been found to have been operated in a manner that adversely affects the public health, welfare or safety of the immediate neighborhood in which the retail marijuana establishment is located. Evidence to support such a finding can include, but is not limited to: (i) a continuing pattern of offenses against the public peace; (ii) a continuing pattern of drug-related criminal conduct within the premises of the retail marijuana establishment or in the immediate area surrounding the retail marijuana establishment; or (iii) a continuing pattern of criminal conduct directly related to or arising from the operation of the retail marijuana establishment.

(i) “License” means a document issued by the City officially authorizing an applicant to operate a retail marijuana establishment pursuant to this Article, or if required by the context,

means a document issued by the state licensing authority pursuant to the Colorado Retail Marijuana Code.

(j) “Licensee” means the person or entity to whom a license has been issued pursuant to this Article.

(k) “Licensed Premises” means the premises specified in an application for a licensed under this Article, which is owned or in possession of the licensee and within which the licensee is authorized to cultivate, test, manufacture, distribute, or sell retail marijuana or retail marijuana products in accordance with state and local law.

(l) “Local Licensing Authority” or “Authority” means the city council sitting as the recreational marijuana licensing authority for the city.

(m) “Marijuana” means all parts of the plant of the genus *cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

(n) “Marijuana Accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

(o) “Marijuana Cultivation Facility” means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers.

(p) “Marijuana Product Manufacturing Facility” means an entity licensed to purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to marijuana stores, but not to consumers.

(q) “Marijuana Store” means an entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers.

(r) “Marijuana Testing Facility” means an entity licensed to analyze and certify the safety and potency of marijuana.

- (s) “Medical Marijuana Business” means a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer as defined in the Colorado Medical Marijuana Code.
- (t) “Retail Marijuana” means marijuana that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment.
- (u) “Retail Marijuana Establishment” means a marijuana store, a marijuana cultivation facility, a marijuana products manufacturing facility or a marijuana testing facility.
- (v) “Retail Marijuana Products” means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients that are intended for use or consumption, including without limitation edible products, ointments and tinctures.
- (w) “State Licensing Authority” or “State” means the authority created by the Colorado Department of Revenue for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, sale and testing of retail marijuana in the State of Colorado pursuant to C.R.S. § 12-43.4-201.

14-223. Licensing Authority Created.

There shall be and is hereby created a Retail Marijuana Licensing Authority hereafter referred to in this Article as the “Authority.”

14-224. Composition of the Authority.

The Authority shall be the City Council.

14-225. Functions of the Authority.

- (a) The Authority shall have the duty and authority pursuant to the Colorado Retail Marijuana Code and this Article to grant or refuse licenses in the manner provided by law.
- (b) The Authority shall have all the powers of a Local Licensing Authority as set forth in the Colorado Retail Marijuana Code.
- (c) The Authority shall have the power to promulgate rules and regulations concerning the procedures for hearings before the Authority.
- (d) The Authority shall have the power to require any applicant or licensee to furnish any relevant information required by the Authority.
- (e) The Authority shall have the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records at any hearing which

the Authority is authorized to conduct. Any such subpoena shall be served in the same manner as a subpoena issued by the District Court of the State.

- (f) The local licensing authority shall possess all powers given to local licensing authorities by the provisions of the Colorado Retail Marijuana Code and rules and regulations promulgated thereunder. Any decision made by the local licensing authority to grant or deny a license, to revoke or suspend a license, or to renew or not renew a license shall be a final decision and may be appealed to the district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

14-226. License required.

- (a) It shall be unlawful for any person to operate any retail marijuana establishment within the City other than a retail marijuana establishment that has been licensed by the State Licensing Authority. It shall further be unlawful for any person to operate any retail marijuana establishment within the City without first having obtained from the Authority a license for the retail marijuana establishment.
- (b) The following four types of business operations as defined in the Colorado Retail Marijuana Code C.R.S. 12-43.4-103 et seq. may be licensed hereunder: Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, Marijuana Store, and Marijuana Testing Facility.
- (c) Such licenses shall be kept current at all times and shall be conspicuously displayed at all times in the premises to which they apply. The failure to maintain a current state or City license shall constitute a violation of this Article.

14-227. Application; term; fees; taxes.

Any person operating or proposing to operate a retail marijuana establishment shall first procure from the City Clerk a retail marijuana establishment license, which the Clerk shall issue in accordance with the following procedures:

- (a) A person seeking to obtain a license pursuant to this article shall submit an application to the City Clerk. The form of the application shall be provided by the City Clerk.
- (b) A license issued pursuant to this section does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the retail marijuana business, including, without limitation, any development approval required by the land use code; a sales tax license; and a building, mechanical, plumbing, or electrical permit.
- (c) An application for a license under this article shall contain the following information:
 - (1) Completed state and local licensing authority application forms;

- (2) A completed set of individual history forms, including a set of the fingerprints for the applicant and for any person owning ten percent or more of the retail marijuana business.
 - (3) The street address of the proposed retail marijuana business;
 - (4) If the applicant is not the owner of the proposed location of the retail marijuana business, a notarized statement from the owner of such property authorizing the submission of the application;
 - (5) An acknowledgement by the applicant that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances, that the city of Trinidad accepts no legal liability in connection with the approval and subsequent operation of the retail marijuana business; and that the application and documents submitted for other approvals relating to the retail marijuana business operation are subject to disclosure in accordance with the Colorado Open Records Act.
 - (6) A complete and accurate list of all owners, officers, managers, and employees of the retail marijuana business and of all persons having a direct or indirect financial interest, and the nature of such interest in the retail marijuana business, including names and addresses for such persons.
 - (7) Plans and specifications for the interior of the building in which the retail marijuana business is located. If the building is not in existence, the applicants shall file a plot plan and detailed sketch for the interior and submit an architect's drawing of the building to be constructed.
 - (8) Evidence that the applicant is, or will be, entitled to possession of the premise for which the application is made under a lease, rental agreement, or other arranged for possession of the premises, or by virtue of ownership of the premises.
 - (9) Any additional information that the City Clerk and/or Authority reasonably determines to be necessary in connection with the investigation, review and determination of the application.
- (d) The applicant shall pay to the city a non-refundable application fee of two thousand five hundred dollars (\$2,500.00) when the application is filed. The purpose of the fee is to cover the administrative and other costs of processing the application. A separate license fee of one thousand dollars (\$1,000.00) shall be paid prior to the issuance of the local license, and upon renewal of such license.

The City shall not accept or act upon an application for a retail marijuana business license if the business application concerns a particular location that is the same as, or within one thousand feet of, a location for which, within the two years immediately preceding date of the application, the city or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.

- (e) Any license issued by the Authority under this Article shall expire at such time as any license then issued by the State for the retail marijuana establishment expires.
- (f) A licensee shall collect and remit City sales tax on all retail marijuana, retail marijuana products, paraphernalia and other tangible personal property sold at retail.
- (g) ***Retail marijuana which is cultivated within City limits and exported to other locales within the State of Colorado shall be subject to a surcharge due to the City of \$25.00 per pound. The surcharge shall be paid monthly to the City Finance Director accompanied by a copy of the corresponding manifest report.***

And

- (h) ***A one-time fee of \$1.00 per square foot of that portion of the licensed premises in which plants are located for cultivation purposes, including greenhouses, shall be due to the City. Any expansion of the licensed premises in which plants are located for cultivation purposes shall result in an additional \$1.00 per square foot charge for that additional area.***

14-228. Public Notice and Public Hearing.

- (a) Upon receipt of an application, except an application for renewal unless one is deemed necessary for good cause, the Local Licensing Authority shall schedule a public hearing upon the application to be held not less than thirty days after the filing date of the application.
- (b) Once the Local Licensing Authority schedules a hearing for a retail marijuana application, it shall post and publish the public notice thereof not less than ten days prior to the hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation in the City.
- (c) Public notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, corporation, or limited liability company, the sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed.
- (d) Public notice given by publication shall contain the same information as that required for signs.

- (e) If the building in which the retail marijuana is to be sold is in existence at the time of the application, any sign posted as required by this ordinance shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of application, the notice shall be posted at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.
- (f) The Local Licensing Authority may request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application.
- (g) For the public hearing held pursuant to this section, each party in interest shall have an opportunity to file remonstrances until 5:00 p.m. the day of the hearing to be presented to City Council for their consideration during the public hearing.
- (h) As used in this ordinance "Party in Interest" means any of the following:
 - (1) The applicant;
 - (2) An adult resident of the neighborhood under consideration who does not represent a group identified in subparagraph 5 of this paragraph h; ***as used in this ordinance neighborhood shall mean***

City limits.

Or

1500 feet surrounding the premises for which the retail license is under consideration.

Or

the zoned area where the premises for which the retail license is under consideration is located.

- (3) The owner or manager of a business located in the neighborhood under consideration;
- (4) The principal or representative of a school or day care center located within the neighborhood and within one thousand five hundred (1,500) feet of the premises for which a retail license is under consideration;
- (5) One representative of an organized neighborhood group that encompasses part or all of the neighborhood under consideration. The representative shall reside within the neighborhood group's geographic boundaries and shall be a member of the neighborhood group;
- (6) A representative of a local law enforcement agency.

- (i) The Local Licensing Authority in its discretion may limit the presentation of evidence and cross-examination so as to prevent repetitive and cumulative evidence or examination.
- (j) All testimony given at the hearing shall be under oath or affirmation.

14-229. Notice of decision; appeal of decision; finality.

- (a) The Local Licensing Authority shall notify the applicant of the decision on the application within thirty (30) business days of rendering the decision. Notice shall be given by mailing a copy of the Local Licensing Authority's decision to the applicant by first-class mail, postage prepaid, at the address shown in the application. Notice is deemed to have been properly given upon mailing.
- (b) Any decision made by the Local Licensing Authority pursuant to this Section shall be a final decision and may be appealed to the district court pursuant to C.R.S. Section 24-4-106. The applicant's failure to timely appeal the decision is a waiver of the applicant's right to contest the denial or conditional approval of the application.

14-230. Renewal fee; process.

Each license issued pursuant to this section shall be valid for a period of one year from the date of issuance, and may be renewed as provided in this section.

- (a) An application for renewal shall be made to the City Clerk not less than forty-five days prior to the date of expiration and shall be accompanied by the license fee identified in Section 14-203(d). The City Clerk will accept late applications not more than ninety days after the date of expiration upon a payment of a five hundred dollars late application fee which shall be in addition to the renewal fee. The City Clerk shall not in any circumstances accept renewal applications more than ninety days after the date of expiration.
- (b) In addition to the renewal application, the applicant shall furnish copies of any approvals or permits required by local and state health officials, as well as the annual inspection report prepared by such officials, for their licensed facilities to the City Clerk.
- (c) The City Clerk shall cause the renewal application to be placed on the agenda of the Council meeting to be held no less than four (4) nor more than thirty (30) days after the Clerk has received the application.
- (d) The applicant shall be in attendance at the Council meeting at which his/her renewal application is presented to the Authority.

(e) At the time of presentation of the renewal application, the Authority shall be furnished with the following:

(1) A summary report submitted by the Police Department of the City of Trinidad identifying all calls responded to by the Police Department to the licensed location. Such summary report shall be accompanied by necessary subordinate information to provide a clear explanation of calls identified within the report.

(2) Copies of all incident reports of police responses to incidents which are identified as having originated at or within the licensed establishment during the previous license period.

(3) A report prepared by the City Building Inspector identifying satisfaction of City Building Codes or a recitation of deficiencies and the steps required to correct such deficiencies.

(f) At the time the renewal application is presented to the Authority, the Authority may approve the renewal application or postpone action on the application to a later date. In the event of a postponement, the Authority shall not be required to hold a hearing on the application, except that no renewal application may be denied unless a renewal hearing has been held.

The motion to set a hearing on the application must set forth the reason or reasons for holding a hearing. Notice of the hearing shall be posted in a conspicuous place on the licensed premises for a period of ten (10) days, and notice of the hearing shall be provided to the applicant at least ten (10) days prior to the hearing. Notice shall be by mail or personal service.

(g) The renewal hearing shall be conducted in the manner provided for hearings on applications for new liquor and fermented malt beverage licenses. At the hearing, evidence shall be taken to determine whether good cause exists to refuse to approve the renewal application. At the close of the hearing, the Authority may vote to approve or deny the renewal application, or may adjourn the hearing to a later date before rendering its decision. Where timely application for renewal has been made, the decision must be rendered prior to the date of expiration of the existing license, and in no event shall the hearing be adjourned for a period exceeding thirty (30) days.

(h) The Authority may refuse to renew a license for any of the following reasons: Failure to comply with City, State or Federal Building Codes, Fire Codes or Electrical Codes; any other reasons set forth under State law; and any other Good Cause reasons.

(i) A criminal history record of the applicant and all employees of the applicant shall be provided to the City Clerk as part of the renewal application.

14-231. Persons prohibited as licensees.

(a) No license provided by this article shall be issued to or held by:

- (1) Any person whose criminal history indicates the person is not of good moral character;
- (2) Any corporation, any of whose officers, directors, or stockholders whose criminal histories indicate such person is not of good moral character;
- (3) Any partnership, association, or company, any of whose officers, or any of whose members whose criminal histories indicate such person is not of good moral character;
- (4) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates such person is not of good moral character, or who is not a resident of Colorado.
- (5) Any cooperative association, any of whose officers, directors, or stockholders or members whose criminal histories indicate that such person is not of good moral character.
- (6) A person under twenty-one years of age;
- (7) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:
 - (A) Provide surety bond or file any tax return with a taxing agency,
 - (B) Pay any taxes interest, or penalties due,
 - (C) Pay any judgments due to a government agency,
 - (D) Stay out of default on a government issued student loan,
 - (E) Pay child support, or
 - (F) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency; or an outstanding delinquency for child support;
- (8) *A person who has discharged a sentence for a conviction of a felony in the five years immediately preceding the application date; or who has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the Authority may grant a license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for licensure;*

Or

- (8) *A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance;*

- (9) A person who employs another person at a marijuana facility who has not passed a criminal history record check;
- (10) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
- (12) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food establishment; or
- (13) A person who has not been a resident of Colorado for at least two years prior to the date of the person's application.

(b) In making a determination as to good moral character or when considering the conviction of a crime, the Authority shall be governed by the provisions of C.R.S. § 24-5-101 and the definition of Good Cause contained within this Article.

14-232. Issuance or denial of license.

(a) In determining whether to issue a license under this section the Authority may consider the following:

- (1) Whether the application is complete and signed by the applicant;
- (2) Whether the applicant has paid the application fee;
- (3) Whether the application complies with all the requirements of this article;
- (4) Whether the application contains any material misrepresentations;
- (5) Whether the proposed retail marijuana business complies with applicable zoning regulations. The city council shall make specific findings of fact with respect to whether the building in which the proposed retail marijuana business will be located conforms to the Trinidad City Codes, including the zoning code and all International Codes adopted by the City;
- (6) The facts and evidence adduced as a result of its investigation;
- (7) Any other facts pertinent to the type of license for which application has been made, including the number, type and availability of retail marijuana outlets located in or near the premises under consideration; and
- (8) In the case of an application for a second license, after considering the effect on competition of granting or denying the additional license, that the issuance of a second license will not have the effect of restraining competition.

- (b) The Authority shall deny the license application if the application fails for good cause as defined in C.R.S. § 12-43.4-305(1).
- (c) The Authority may impose reasonable conditions upon any license issued pursuant to this article.
- (d) Reserved.
- (e) Within thirty days after the public hearing or completion of the application investigation, the city shall issue its decision approving or denying the application. The decision shall

be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.

- (f) The City shall not issue a license until the building in which the business to be conducted is ready for occupancy and has been inspected for compliance with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.
- (g) After approval, the city shall notify the state licensing authority of such approval.

14-233. Contents and display of license.

The licensee shall post the license in a conspicuous location at the retail marijuana business. A marijuana business license shall contain the following information:

- (a) The name of the licensee;
- (b) The date of issuance of the license;
- (c) The street address at which the licensee is authorized to operate the retail marijuana business;
- (d) Any conditions of approval imposed upon the license by the city council;
- (e) The type of license;
- (f) The date of expiration of the license; and
- (g) The license shall be signed by the applicant and the City Clerk.

14-234. Transfer/termination.

A license holder wishing to transfer ownership of the retail marijuana business shall apply for such a transfer on forms prepared and furnished by the state licensing authority, accompanied by a transfer application fee of one thousand five hundred dollars (\$1,500.00) and license fee of one thousand dollars (\$1,000.00). In determining whether to permit a transfer of ownership, the city shall consider only the provisions of this article, of the Colorado Retail Marijuana Code, and any rules promulgated by the state licensing authority.

14-235. Suspension or revocation.

- (a) A license issued pursuant to this article may be suspended or revoked by the Authority, or the hearings officer appointed by the Authority for the purpose, after a hearing for the following reasons:
 - (1) Fraud, misrepresentation, or a false statement of material fact contained in the permit application;
 - (2) Any violation of city ordinance or state law pertaining to the operation of a retail marijuana business including regulations adopted by the state licensing authority or the possession or distribution of marijuana;
 - (3) A violation of any of the terms and conditions of the license;

- (4) A violation of any of the provisions of this section.
 - (5) A violation of the criminal code of the United States or of any state that shall constitute a felony, or misdemeanor if committed in the state of Colorado. It shall be at Authority's discretion as to whether a violation of the criminal code shall be cause for disciplinary measures.
- (b) In deciding whether a license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the Authority, or the hearings officer appointed by the Authority, shall consider:
- (1) The nature and severity of the violation;
 - (2) Corrective action, if any, taken by the licensee;
 - (3) Prior violation(s), if any, by the licensee;
 - (4) The likelihood of recurrence of the violation;
 - (5) The circumstances of the violation;
 - (6) Whether the violation was willful; and
 - (7) Previous sanctions, if any, imposed on the licensee.
- (c) The provisions of the Colorado Retail Marijuana Code shall govern proceedings for the suspension or revocation of a license issued. The Authority may adopt its own codes or ordinances governing the proceedings for the suspension or revocation of license issued under this article.
- (d) The Authority or the hearings officer appointed by the Authority may impose a fine in lieu of a suspension in accordance with the provisions of C.R.S. § 12-43.4-601(3).

14-236. Change of location.

- (a) A licensee may move his or her permanent location to another location in the city, but it shall be unlawful to cultivate, manufacture, distribute, or sell retail marijuana at any such place until permission to do so is granted by the city and the state licensing authority.
- (b) In permitting a change of location, the city shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this article, the Colorado Retail Marijuana Code, and rules promulgated by the state licensing authority.
- (c) The City shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought.
- (d) The application for a change in location must be accompanied by a non-refundable fee of one thousand five hundred dollars (\$1,500.00).

14-237. Operational requirements.

Retail marijuana businesses shall comply with the following operational requirements:

- (a) Retail marijuana facilities shall operate only during the hours of 8:00 a.m. to 7:00 p.m.
- (b) Retail marijuana businesses shall provide adequate security on the business premises, which shall include the following:
 - (1) Twenty-four-hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lots along with the interior and exterior of the premises. Copies of all security audio or video should be retained as set forth in the Colorado Retail Marijuana Enforcement Division Rules, Security Requirements. The business owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the business or its patients. The business owner shall not be required to produce surveillance footage disclosing the identity of business patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.
 - (2) A burglar alarm system that is professionally monitored and maintained in good working order.
 - (3) A locking safe permanently affixed to the premises suitable for storage of the centers' inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.
 - (4) Exterior lighting that illuminates the exterior walls of the business.
- (c) No firearms, knives, or other weapons shall be permitted in a marijuana center except those carried by sworn peace officers, employees, owners, or managers of such facilities.
- (d) Marijuana shall not be consumed or used on the premises of a marijuana business and it shall be unlawful for a retail marijuana licensee to allow marijuana to be consumed on its premises.
- (e) Marijuana businesses shall comply with the provisions of Article XVIII, Section 16 of the Colorado Constitution and with any other relevant Colorado statute or administrative regulation. The operator of a marijuana business shall provide evidence of said compliance and shall permit the inspection of the premises upon request of any sworn peace officer in the employ of the city of Trinidad Police Department.

14-238. Distance requirements.

All retail marijuana businesses shall be at least one thousand feet from any school, as defined in Section 14-201 of Article 11. Distance shall be computed using a route of direct pedestrian access from the nearest property line of the land used for the protected activity to the nearest portion of the building in which marijuana is sold.

14-239. Zoning; Dual Operations.

All marijuana businesses shall be located only in those zoning districts designated for marijuana businesses and shall not be allowed within any residentially zoned areas nor be allowed as a home occupation.

(a) Retail Marijuana Stores; Dual Operations.

(1) Retail Marijuana Stores are defined as set forth in C.R.S. Section 12-43.4-103(20) "Retail Marijuana Store" now in effect or as may be amended from time to time.

Marijuana stores shall only be allowed in the Community Commercial, Historic Preservation, or Industrial zone district, and only after issuance of a Conditional Use Permit has been granted.

(2) All marijuana businesses shall meet the distance requirements set forth in this Article.

(3) All marijuana stores shall comply with all applicable state and local statutes, ordinances, rules, and regulations regarding the operation of marijuana stores, and other statutes, ordinances, rules, and regulations for the operation of businesses within the City of Trinidad, including but not limited to City sales tax and the City's sign code.

(4) (a) Only those Medical Marijuana businesses that have been issued a license or are eligible for issuance of a license on or before April 22, 2015 by the City pursuant to Article 12 of this Chapter and by the State pursuant to the Colorado Medical Marijuana Code, whether for a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer, or any combination thereof, each as defined in the Colorado Medical Marijuana Code, may share its existing location with a licensed marijuana store or change the license type to retail in accordance with state law, provided, however, that if such licensed medical marijuana business shall have any sign that fails to conform to any requirement or limitation of this Code concerning signs, such sign shall be brought into compliance with such requirement or limitation before a City license may be issued.

Or

(a) Omit this paragraph. The result would be that licensing would be open to anyone that's eligible.

(b) Marijuana Testing Facilities, Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities not licensed as of April 22, 2015, shall only be allowed in the Industrial zone district, and only after issuance of a Conditional Use Permit has been granted. All marijuana facilities shall comply with all applicable state and local statutes, ordinances, rules, and regulations regarding the operation of marijuana stores, and other statutes, ordinances, rules, and regulations for the operation of businesses within the City of

Trinidad, including but not limited to City sales tax and the City's sign code and shall meet the distance requirements set forth in this Article.

Or

(b) All Retail Stores, Marijuana Testing Facilities, Marijuana Cultivation Facilities, and Marijuana Product Manufacturing Facilities shall be allowed in Community Commercial, Historic Preservation, or Industrial zone district, and only after issuance of a Conditional Use Permit has been granted. Except that a Retail Marijuana Cultivation Facility that exceeds 10,000 square feet shall only be allowed in the Industrial zone district. Retail marijuana businesses shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation. All marijuana facilities shall comply with all applicable state and local statutes, ordinances, rules, and regulations regarding the operation of marijuana stores, and other statutes, ordinances, rules, and regulations for the operation of businesses within the City of Trinidad, including but not limited to City sales tax and the City's sign code and shall meet the distance requirements set forth in this Article.

Or

(b) All Retail Stores, Marijuana Testing Facilities, Marijuana Cultivation Facilities, and Marijuana Product Manufacturing Facilities shall be allowed in Community Commercial, Historic Preservation, or Industrial zone district, and only after issuance of a Conditional Use Permit has been granted. Except that a Retail Marijuana Cultivation Facility that exceeds 10,000 square feet shall only be allowed in the Industrial zone district and/or in Community Commercial zoning. Retail marijuana businesses shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation. All marijuana facilities shall comply with all applicable state and local statutes, ordinances, rules, and regulations regarding the operation of marijuana stores, and other statutes, ordinances, rules, and regulations for the operation of businesses within the City of Trinidad, including but not limited to City sales tax and the City's sign code and shall meet the distance requirements set forth in this Article.

14-240. Signage and Advertising.

- (a) Any person or premises licensed as a medical marijuana center shall comply with all City ordinances regulating signs and advertising. In addition, no licensed marijuana business shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

- (b) Except as otherwise provided in this Section, it shall be unlawful for any person licensed under this article or any other person to advertise any marijuana business anywhere in the City where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device; any sign mounted on a vehicle, any hand-held or portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph (b) shall not apply to:
- (1) Any sign located on the same lot as a marijuana business which exists solely for the purpose of identifying the location of the marijuana business and which otherwise complies with the City's sign code and any other applicable City laws and regulations; or
 - (2) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the City; or
 - (3) Advertising which is purely incidental to sponsorship of a charitable event by a marijuana business.
- (d) For purposes of this Section, the terms "advertise," "advertising" or "advertisement" means the act of drawing the public's attention to a marijuana business in order to promote the sale of marijuana.
- (e) In advertising the business location through signage, in addition to all regulations set forth in the City of Trinidad sign code, the following shall apply:
- (1) No neon lighting shall be allowed;
 - (2) No flags or other displays shall be allowed;
 - (3) The aesthetic façade and exterior of the business must compliment the surrounding neighborhood;
 - (4) All signage must be discrete in nature.

14-241. Penalty.

Any person who violates any of the provisions of this Section 14 Article 12 is guilty of a misdemeanor and punishable by a fine of up to five hundred dollars and a jail sentence of up to one year or both a fine and jail sentence as set forth in Trinidad City Code Chapter 1, Section 1-8 now in effect or as may be amended from time to time.

Every day that a violation of this section and article continues shall be deemed a separate violation.

14-242. No waiver of governmental immunity.

In adopting this ordinance, the City Council is relying on and does not waiver or intend to waive by any provision of this ordinance, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-140-101, et. seq. C.R.S., as from time to time amended, or any other limitations, right, immunity, or protection otherwise available to the City, its officers or its employees.

14-243. No City liability.

By accepting a license issued pursuant to this ordinance, a licensee releases the City, its officers, elected officials, appointed officials, employees, attorneys and agents from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations. The licensee shall execute a written instrument confirming the provisions of this section.

14-244. Indemnification of City.

By accepting a license issued pursuant to this ordinance a licensee, jointly and severally if more than one, agrees to indemnify and defend the City, its officers, elected officials, employees, attorneys, agents, insurers, and self-insurance pool against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with the operation of the medical marijuana dispensary that is the subject of the license. The licensee further agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. The Local Licensing Authority may require a licensee to execute a written installment confirming the provisions of this Section.

Section 2. Severability. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 5. The repeal or modification of any provision of the Code of Ordinances of the City of Trinidad, Colorado, by this ordinance shall not release, extinguish, alter, modify or change in whole or in

part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceeding and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 6. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 7. The moratorium imposed on the licensing of retail/recreational marijuana through the adoption of Ordinance No. 1944 on September 17, 2013, shall be lifted upon the effective date of this ordinance.

INTRODUCED BY COUNCILMEMBER _____, READ AND ORDERED PUBLISHED, this _____ day of _____, 2014.

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

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

JOSEPH A. REORDA, Mayor

ATTEST:

AUDRA GARRETT, City Clerk

EXHIBIT TO ORDINANCE NO.

**CITY OF TRINIDAD RETAIL MARIJUANA FEES
JUNE, 2014**

Application Fee (Non-Refundable)	\$2,500.00
Transfer of Ownership Application Fee (Non-Refundable)	\$1,500.00
Change of Location Fee (Non-Refundable)	\$1,500.00
License Fee	\$1,000.00

Application fees and License Fees are due at the time of application.
Renewal applications shall be accompanied by the License Fee.