

TRINIDAD CITY HALL
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-0223

Chi-Wei Lin, Mayor
Gabriel Adams, City Clerk



ORDINANCE NO. 2006 - 02

AN ORDINANCE AMENDING SECTIONS OF THE TRINIDAD HEALTH AND SAFETY CODE AND RELATING TO THE PROTECTION OF COASTAL VIEWS FROM UNREASONABLE OBSTRUCTION BY VEGETATION

WHEREAS: The City's General Plan recognizes the contribution of scenic resources, including both coastal views and vegetation, to the character and vistas of the City.

WHEREAS: The Trinidad Zoning Ordinance protects coastal views from certain structures, but does not adequately protect views from vegetation related blockage.

WHEREAS: Coastal Act §30251 recognizes the importance of preserving scenic coastal views.

WHEREAS: This ordinance has been duly noticed for public hearings before the Planning Commission and City Council.

WHEREAS: This ordinance is categorically exempt from CEQA per § 15304 and 15305 of the CEQA Guidelines exempting minor alterations to land and/or vegetation and minor alterations of land use limitations.

WHEREAS: The City of Trinidad declares that there is no substantial evidence that the project will have a significant effect on the environment, and that said project does not individually or cumulatively have an adverse impact on wildlife resources, as defined by § 711.2 of the California Fish and Game Code.

NOW THEREFORE BE IT RESOLVED:

Those properties delineated in the Views and Vegetation Map (Exhibit A), attached hereto, will be subject to the provisions provided in this ordinance.

NOW THEREFORE BE IT FURTHER RESOLVED:

The following Chapter shall be added to the Trinidad Health and Safety Code, Title 8 of the City Municipal Code:

CHAPTER 8.16: VIEWS AND VEGETATION OVERLAY ZONE

Section 8.16.010: Purpose

The purposes of this Chapter are to:

- A. Establish the right of *persons* to protect their coastal *views* from *unreasonable obstruction* by the growth of *trees* or other *vegetation*.
- B. Establish the right of *persons* to *restore* coastal *views* that have been unreasonably blocked by *trees* or other *vegetation*.

- C. Establish a process by which *persons* may seek restoration of such coastal *views* when unreasonably obstructed by the growth of *trees* or other *vegetation*.

Section 8.16.020: Applicability

This Chapter shall apply to the area of the City mapped as “Area subject to *Views* and *Vegetation* Provisions” on the “Views and Vegetation Map” (§8.16.030). The provisions in this Chapter shall be in addition to any other City ordinance regulating the use of land, including the Trinidad Zoning Ordinance (Title 17). This Chapter shall also apply to *vegetation* within public rights-of-way located within the areas mapped as “Areas subject to *Views* and *Vegetation* Provisions.”

Section 8.16.030: Views and Vegetation Map

1. This section consists of the Views and Vegetation Map of the City of Trinidad. A copy of the Views and Vegetation Map shall be kept on file in the office of the City Clerk.
2. The Views and Vegetation Map may be amended in whole or in part from time to time. Amendments to the Map may be initiated by the City Council, the Planning Commission or a property owner. A property owner wishing to amend the Map, shall file an application with the City. The applicant shall be responsible for all City expenses associated with processing a Views and Vegetation Map amendment. At the time of application submittal, the applicant shall pay a fee / deposit for the Views and Vegetation Map Amendment. The fee / deposit shall be the same as for a Design Review application, or as otherwise established by resolution of the City Council. The Planning Commission shall hold at least one public hearing on a proposed amendment. All property owners within 300 feet of the proposed amendment shall be notified of the time, place and nature of the hearing at least seven calendar days before the hearing. After the public hearing(s), the Planning Commission shall make a recommendation to the City Council regarding the amendment. Thereafter, the City Council shall set the matter for public hearing. The City Council's decision shall be final.

Section 8.16.040: Principles

The City's General Plan (1978) recognizes the contribution of scenic resources, including both coastal *views* and *vegetation*, to the character and vistas of the City. Trinidad General Plan Design Guideline 4 (p. B-2) states: “*Buildings, fences, paved areas, signs and landscaping, and similar developments shall not be allowed to significantly block views of the shoreline from key public viewing points or from view points inside structures located uphill from the proposed development.*” The Trinidad Zoning Ordinance protects coastal *views* from certain structures through the design review process, but does not adequately protect *views* from *vegetation* related blockage.

Vegetation produces benefits for residents and visitors, contributing to the natural environment by modifying temperatures and winds, replenishing oxygen, providing wildlife habitat, controlling soil erosion and providing scale, color and visual buffers between land uses. However, *vegetation* and *views*, and the benefits derived from each may come into conflict. The planting of *trees* and other *vegetation* and their subsequent growth, particularly when such *trees* are not properly maintained, can produce unintended harmful effects, both on the property on which they are planted or on neighboring properties.

Coastal *views* are important to both residents and visitors, contributing to the enjoyment and value of property and providing vistas of Trinidad Head, Little Trinidad Head, Trinidad Harbor, the Pacific Ocean and the rocky coastline and islands. It is also recognized that certain areas of the City have such unparalleled *views*, that the preservation of these coastal *views* warrants special protection from *vegetation* that grows to block those *views*. Significant public and private coastal *views* have already been lost to *vegetation* growth since the adoption of the General Plan in 1978. The intent of these regulations is to provide guidelines and standards to resolve disputes between neighbors, balancing *vegetation*- and *view*-related values in the interest of public health, safety and welfare.

The rights and the restorative process are based upon the following general principles:

1. The City recognizes that residents, property owners, businesses and the general public cherish their coastal *views* from the City. The City recognizes that coastal *views* contribute greatly to the quality of life in Trinidad, including property values, and promote the general welfare of the entire community. The City also recognizes that *views* are the most prevalent reason residents choose to live in certain areas of the City.
2. The City also recognizes the desire of many of its residents, property owners, and businesses for beautiful and plentiful landscaping, including *trees*. The City realizes that this desire may sometimes conflict with the preservation of *views*, and that disputes related to *vegetation* and *view* obstruction are inevitable.
3. Owners and residents shall maintain *vegetation* on their property in a healthy condition for both safety reasons and for preservation of coastal *views*. Before landscaping, owners and residents are responsible for considering *views* and blockage potential, both when planted and at landscaping maturity.
4. The City has established the following process by which *persons* may seek to protect and *restore* *views* that have been unreasonably blocked by the growth of *trees* or other *vegetation*. The City has also established herein a list of factors to be considered in determining appropriate actions to *restore* *views*. These factors shall consider the rights and enjoyment of property of the *vegetation's* owner. *Persons* retain the right to seek civil remedies when threatened by *dangerous tree growth* independent of the provisions of this Chapter.
5. When a *view* obstruction dispute arises, the parties should act reasonably to resolve the dispute through friendly communication, thoughtful negotiation, compromise, and other traditional means. Those disputes that are not resolved through such means shall follow the procedure established herein.
6. It is the intent of the City that the provisions of this Chapter receive thoughtful and reasonable application. It is not the intent of the City to encourage the *removal* of *dedicated trees*, or *vegetation* that contributes to slope stability or the substantial denuding of any property of its *vegetation* by overzealous application of provisions of this Chapter.

Section 8.16.050: Definitions

For the purpose of this Chapter, the meaning and construction of words and phrases shall be as set forth in this section. Words used in the present tense include the future; the singular shall include the plural, and the plural the singular. (Italicized words in this ordinance are those that are defined in this section):

Arborist: A *person* possessing the technical competence through experience and related training to provide for or supervise the management of *trees* or other woody *vegetation* in a landscape setting (can be a *tree* service specialist).

Complaining party: Any property owner (or legal occupant with written permission of the property owner) within the City limits who alleges that *vegetation* located on the property of another *person* is causing *unreasonable obstruction* of his or her *view*. A *complaining party* can be more than one property owner or resident if multiple *persons' views* are affected by the same *vegetation*. The City, or a City representative, may also be a *complaining party* on behalf of public coastal *views* from public roads, trails or vista points.

Crown Reduction (or Shaping): A method of comprehensive *trimming* that reduces a *tree's* height or spread. *Crown reduction* entails the reduction of the top, sides, or individual limbs of a *tree* by means of elimination of leaders or the longest portion of limbs to a lateral large enough to assume the terminal.

Dangerous Tree Growth: A *tree*, or any portion of a *tree* that has a reasonable potential to cause injury or property damage as determined by the City Engineer or an *arborist*.

Dedicated Tree: A *tree* of special significance due to aesthetic, historic or environmental value so designated by the City Council as set forth in this Chapter.

Heading Back: The overall reduction of the mass of a tree by modification to its major limbs.

Hedge: Any plant material, including *trees*, *stump growth* or *shrubbery* planted or growing in a dense, continuous line, so as to form a thicket barrier or living fence.

Lacing: see *thinning*.

Mediator: A neutral, objective third *person* who assists people in finding mutually satisfactory solutions to their problem.

Person: Any individual, corporation, partnership, firm, or other legal entity.

Pruning: The *removal* of plant material from a *tree* or from *vegetation*.

Removal: The complete elimination, including roots, stems/trunk and leaves, of any *vegetation* from its present location.

Restorative Action: Any specific requirement as set forth by the Trinidad Planning Commission to resolve a *vegetation* and *view* dispute.

Restore: to bring back to a former, or original state.

Shaping: see *crown reduction*.

Shrub or Shrubbery: A woody perennial plant smaller than a *tree*, usually having permanent stems branching from or near the ground. References to "*shrub*" shall include the plural.

Stump Growth: New growth from the remaining portion of the *tree* trunk, the main portion of which has been cut off.

Thinning (or Lacing): A comprehensive method of *trimming* that systematically and sensitively removes excess foliage (generally entire branches) and improves the structure of a tree or other *vegetation*.

Topping: Elimination of the upper portions of any *vegetation*. Specifically for *trees*, it means the elimination of the upper portions of the trunk or main leader.

Tree: Any woody perennial plant having a single, usually elongate main stem generally with few or no branches on its lower part.

Trimming: The selective elimination of portions of or entire branches or other vegetative plant parts so as to modify the *vegetation's* shape or profile or alter its appearance.

Unreasonable Obstruction: Significant obstruction of a *view* by *vegetation* as determined by the Planning Commission using the criteria set forth in §8.16.080.

Vegetation: As used in this Chapter, *vegetation* includes *trees*, *shrubs*, *hedges*, vines, grasses or other plant material.

Vegetation Owner: Any *person* owning real property in Trinidad upon whose land is located *vegetation* alleged by a *Complaining party* to cause an *unreasonable obstruction*. In the case of *vegetation* within the

public right-of-way, the *vegetation owner* shall be the *person(s)* responsible for planting and/or maintaining the *vegetation*.

View: As used in this ordinance, *views* are limited to coastal *views*, including the Pacific Ocean, rocky coastline and islands, Trinidad Harbor, Trinidad Head and Little Trinidad Head. Private *views* are from the inside of a residence or an occupied commercial structure; exterior *views* may be a consideration used by the Planning Commission in making their findings for unreasonable obstruction. Public *views* are from public roads, trails or vista points.

View Restoration Permit: A permit issued by the Trinidad Planning Commission requiring *restorative action* on *vegetation* in order to *restore* or protect a *view* from *unreasonable obstruction*.

Vista Pruning: see *windowing*.

Windowing (or vista pruning): A form of selective *thinning* by which openings or "windows" are created to allow a *view* through the *tree* from a specific point.

Section 8.16.060: Rights Established

Persons shall have the right to protect and seek restoration of *views* from *vegetation* that exceeds the maximum height limitations set forth in §17.56.110 of the Trinidad Municipal Code and/or which have been *unreasonably obstructed* by the growth of *vegetation*.

In order to establish such rights pursuant to this Chapter, the *person* must follow the process established in this Chapter. In addition to the above rights, private parties and the City retain the right to seek remedial action for imminent danger or *view* blockage caused by *trees* independent of the provisions of this Chapter.

Section 8.16.070: Unreasonable obstruction Prohibited

No *person* within the *Views* and *Vegetation* Overlay Zone shall plant, maintain, or permit to grow any *vegetation* that *unreasonably obstructs* a *view* from any occupied structure or from key public viewing points within the City.

Section 8.16.080: Criteria for Determining Unreasonable Obstruction

The following criteria are to be considered (but are not limited to) in determining whether *unreasonable obstruction* has occurred, or will occur:

- (a) The extent of obstruction of a *view* compared to extent when property was purchased by the *complaining party* and/or when the General Plan was adopted (May 2, 1978), whichever is longer.
- (b) To what extent the *view* being blocked contributes to the value, use and enjoyment of the property. Obstruction can be considered both that which is existing and that anticipated at *vegetation* maturity based on the *vegetation owner's* stated maintenance intentions.
- (c) The quality and percentage of the coastal *views* being obstructed, including obstruction of landmarks, vistas, or other unique features and the quality of the living area or viewpoint from which the *view* is blocked.
- (d) The extent to which the *complaining party's view* has been diminished over time by factors other than *vegetation* growth such as new residences or additions.

Section 8.16.090: Process for Resolution of View Obstruction Disputes within the Views and Vegetation Overlay Zone

The following process shall be used in the resolution of *view* obstruction disputes between parties:

1. Initial Reconciliation: Any *complaining party* who believes in good faith that the growth, maintenance and/or location of *vegetation* situated on the property of another unreasonably diminishes the beneficial use, economic value or enjoyment of the *view* from the *complaining party's* property or from public roads, trails or vista points, shall notify the *vegetation owner* in writing of these concerns. For *trees*, it is recommended that the *complaining party* consult an *Arborist* and obtain a report for a feasible solution to the *view* problem that may avoid complete *removal* of the *tree*. The notification to the *vegetation owner* should include the *arborist's* report if one was obtained, and should also be accompanied by personal discussions / negotiations, if possible, to enable the *complaining party* and the *vegetation owner* to attempt to reach a mutually agreeable solution, both long term and short term, to the alleged *unreasonable obstruction*. Ongoing maintenance of the *vegetation* should be agreed upon in writing between the parties to avoid future conflicts. Cost allocation is to be agreed upon by *complaining party* and *vegetation owner*. The *complaining party* is also encouraged to work with other *persons* whose *views* are affected by the same *vegetation*.

2. Mediation: If the initial reconciliation attempt fails, the *complaining party* is encouraged to, at their own cost, propose mediation as an alternative means to settle the *view* obstruction dispute. A list of local *mediators* and mediation services shall be kept on file in the Office of the City Clerk. It shall be up to the *complaining party* and *vegetation owner* to decide on the details of the mediation process. Since mediation is voluntary, it shall be the decision of the *complaining party* to determine when mediation has failed and to choose to apply for a *view restoration permit*.

The *Mediator* shall consider the purposes, policies and criteria set forth in this Chapter in attempting to help resolve the dispute. The *Mediator* shall not have the power to issue binding orders for *restorative action*, but shall strive to enable the parties to resolve their dispute by written agreement in order to eliminate the need for City involvement. Any agreement that entails future or ongoing maintenance should be recorded on the deed and made to run with the land in order to minimize future disputes.

3. View Restoration Permit:

- a. In those cases where the parties are unable to reach agreement through the Initial Reconciliation process or with the assistance of a *mediator*, any resident of the City whose *view* has been unreasonably blocked by *vegetation* within the "Area subject to *Views* and *Vegetation* Provisions" may file an application with the City for a *View Restoration Permit*. If more than one property owner is affected by the same *vegetation*, they may jointly file an application. The applicant shall file with the application written proof, such as a letter sent certified mail, that the applicant consulted, or attempted to consult, with the property owner whose *vegetation* is in question along with any other applicable information requested on the application form.
- b. The applicant shall be responsible for all City expenses associated with processing a *View Restoration Permit*. At the time of application submittal, the applicant shall pay a fee / deposit for the *View Restoration Permit*. The fee / deposit shall be the same as for a Design Review application, or as otherwise established by resolution of the City Council.
- c. The application shall be submitted to the City Clerk for public hearing before the Planning Commission a minimum of 30 days prior to the hearing. Upon receiving an application, written notice of the nature of the application shall be sent to the *vegetation owner*. Public hearing notification to the applicant, *vegetation owner*, neighboring property owners and the general public as prescribed in §17.72.130.A of the Trinidad Zoning Ordinance shall also be given. If the offending *vegetation* is a *tree* more than 12 inches in diameter at breast height or a dedicated tree, the public notice shall include issuance of a Conditional Use Permit pursuant to §17.72.040 of the Trinidad Zoning Ordinance for its possible *removal*.
- d. Commission members should inspect the site prior to the public hearing.

- e. All parties are encouraged to submit evidence supporting their positions, including, but not limited to, photographs, *arborist* report, geologic report, insurance claim, written statements from neighbors, etc.
- f. If the *vegetation owner* fails to attend the hearing, the Commission shall continue the hearing once and direct staff to write a certified letter to the *vegetation owner* expressing the importance of attending the next hearing in order to support their stance. If the *vegetation owner* still fails to attend the hearing, the Planning Commission shall continue with the hearing process as set forth in this section.
- g. In order for a *view* restoration permit to be issued, the Commission must find:
 - i. The applicant has complied with the early neighbor consultation process and has shown written proof of cooperation on his/her part to resolve conflicts.
 - ii. The offending *vegetation* results in the *unreasonable obstruction* of *view(s)* based on the criteria in section 8.16.090.
 - iii. *Removal* or alteration of the *vegetation* will not cause an unreasonable infringement of the privacy, reasonable enjoyment or value of the property or the occupants of the property upon which the *vegetation* is located.
 - iv. *Removal* or alteration of the *vegetation* will not cause significant environmental impacts.
- h. Factors that shall be considered by the Commission in making the above findings and determining the appropriate *restorative action* include, but are not limited to:
 - (i) The hazard posed by a *tree* or other *vegetation* to *persons* or structures including, but not limited to, fire danger and the danger of falling limbs or *trees*.
 - (ii) The variety of *vegetation*, its projected rate of growth and maintenance requirements as well as its value or rarity.
 - (iii) Aesthetic quality of the *vegetation*, including but not limited to species characteristics, size, growth, form, vigor and viewshed.
 - (iv) Location with respect to overall appearance, design, or use of the *Vegetation Owner's* property.
 - (v) Soil stability provided by the *vegetation* considering soil structure, degree of slope and extent of the *vegetation's* root system.
 - (vi) Privacy (visual and auditory) and wind screening provided by the *vegetation(s)* to the *Vegetation Owner* and to neighbors.
 - (vii) Energy conservation and or climate control provided by the *vegetation*.
 - (viii) Wildlife habitat provided by the *vegetation*.
 - (ix) Whether *trees* are "*Dedicated Trees*", as defined herein.
 - (x) The number of people whose *views* are affected and the distance away from the *vegetation* that the *complaining party* is located.
- i. Should the Planning Commission consider requiring the *removal* of any *tree* that is more than 12 inches in diameter at breast height or that is a dedicated tree as part of any *restorative action*, then Conditional Use Permit findings per §17.72.040 of the Trinidad Zoning Ordinance must also be made and the Use Permit issued prior to *tree removal*.
- j. Any *restorative action* ordered by the Planning Commission as part of a *View Restoration Permit* should include written conditions (including ongoing maintenance), and directions as to appropriate timing of such actions. An agreement for future maintenance of the offending *vegetation* should be enacted and recorded on the deed of the *vegetation owner* and made to run with the land and apply to successors in interest. Conditions of approval, including future maintenance, shall be enforced through the City's Nuisance Abatement Procedures (Chapter 8.12 of the Municipal Code). Where *removal* is required, replacement by an appropriate species should be considered.

Section 8.16.100: Public Views

For public view disputes, determination of *unreasonable obstruction* and the process for issuing a *view restoration permit* shall be as set forth above in Sections 8.16.060 – 8.16.090. Once the Planning Commission has determined that *unreasonable obstruction* has occurred, the Commission shall declare such to be a public nuisance in accordance with §8.16.160 below and the City's Nuisance Abatement Ordinance (Chapter 8.12 of the Municipal Code). The City shall then commence nuisance abatement procedures beginning with §8.12.110 (Notice and Order to Abate Nuisance). Sections 8.16.130 and 8.16.140 of this ordinance shall not apply to public views.

Section 8.16.110: Designation of Dedicated Trees

- (a) Upon nomination by any *person*, including City Officials, and with the written consent of the property owner(s), the City Council may designate a *tree* or *trees* as a *Dedicated Tree*.
- (b) A *tree* may be designated as a *Dedicated Tree* upon a finding that it is unique and of importance to the community due to any of the following factors:
 - (1) It is an outstanding specimen of a desirable species;
 - (2) It is one of the largest or oldest *trees* in Trinidad;
 - (3) It possesses distinctive form, size, age, location, and/or historical significance.
- (c) After Council approval of a *Dedicated Tree* designation, the City Clerk shall notify the property owner(s) in writing. A listing of *trees* so designated, including the specific locations thereof, shall be kept in the Office of the City Clerk.
- (d) Once designated, a *Dedicated Tree* shall be given special consideration according to the provisions of this Chapter unless removed from the list of *Dedicated Trees* by action of the City Council. The City Council may remove a *tree* from the list upon its own motion or upon written request by the property owner. Request for such action must originate in the same manner as nomination for *Dedicated Tree* designation.
- (e) No person shall remove or substantially alter a *dedicated tree* such that its health or the traits for which it was dedicated may be impacted without first securing a Use Permit from the City pursuant to **§17.72.040 of the Trinidad Zoning Ordinance**. The City Building Official or any employee designated by the City is authorized and directed to immediately issue a stop work order to any *person* found to be removing or altering a *dedicated tree* without the authority required by this Chapter or Title 17 (Trinidad Zoning Ordinance) of the Trinidad Municipal Code.

Section 8.16.120: City Guidelines Concerning Restorative Action

The City of Trinidad provides the following general guidelines concerning *restorative actions*. These techniques can be used alone or in conjunction with one another:

- A. *Trimming*. *Trimming* is the most minor form of physical *restorative action*. This option is recommended when minor *unreasonable obstruction* has occurred, provided that ongoing maintenance is guaranteed. Over-pruning should be avoided.
- B. *Thinning or Windowing*. When simple *trimming* will not resolve the *unreasonable obstruction*, *thinning* or *windowing* may be necessary. These should be supervised by a certified *arborist*. Ongoing maintenance may be required. *Over-thinning* should be avoided.
- C. *Crown Reduction*. *Crown reduction* is preferable to *topping* or *tree removal*, if it is determined that the impact of *crown reduction* does not destroy the visual proportions of the *tree*, adversely affect the *tree's* growth pattern or health, or otherwise constitute a detriment to the *tree(s)* in question.

- D. *Stand Thinning*. The *removal* of a portion of the total number of *trees* from a grove of *trees*, without any replacement plantings may be a viable option.
- E. *Topping*. *Topping* as a *restorative action* should be used with caution. *Topping* can have deleterious effects on a *tree's* health, appearance, and cost of maintenance. *Topping* frequently results in *stump growth*. *Tree removal*, with replacement plantings, may be a preferable alternative. *Topping* is only to be permitted for *trees* specifically planted and maintained as a *hedge*, espalier, bonsai or in pollard form and if restoration actions (A) through (D) of this section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.
- F. *Heading Back*. Includes eliminating the outer extent of the major branches throughout the *tree*. *Heading back* is only to be permitted for *trees* specifically planted and maintained as a *hedge*, espalier, bonsai or in pollard form and if restoration actions (A) through (E) of this section will not accomplish the determined restoration and the subsequent growth characteristics will not create a future obstruction of greater proportions.
- G. *Removal*. *Vegetation removal* may be required where such *removal* is essential to protect *views*. While normally considered a drastic measure, *vegetation removal* can be the preferred solution in some circumstances, such as if there would be high maintenance requirements otherwise. *Removal* may be accompanied by appropriate replacement planting.
- H. Other Considerations.
1. Once *vegetation* has been found to be causing *unreasonable obstruction*, in determining appropriate *restorative action*, the Planning Commission should seek to balance the wishes of all parties and strive to find a mutually agreeable solution. If such a solution is impossible, the Planning Commission should order *restorative action* that solves the *view* issue, while being the least intrusive to the *vegetation owner*.
 2. *Stump growth*. *Stump growth* generally results in the hazard of weak limbs, and its protection is not desirable. When considering *restorative action* for *stump growth*, aggressive action is preferred. *Restorative action* which will result in future *stump growth* should be avoided.
 3. Severe *pruning* should be avoided due to the damage such practice causes to the *tree's* form and health.
 4. Maintenance. Ongoing *vegetation* maintenance requirements are strongly recommended as part of *Restorative action* in order to achieve lasting preservation of *views* and shall be recorded on the deed.
 5. Permanence. Conditions of *Restorative action* requiring future maintenance should be recorded on the deed and run with the land to help guarantee permanent preservation of *views* and avoidance of future disputes.
 6. *Dangerous Tree Growth*. There are no protections for the *vegetation*; aggressive action should be taken to protect public health and safety.
 7. In cases where *trimming*, *windowing*, *topping* or other *Restorative action* may affect the health of a *tree* which is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California and/or carried out under the supervision of a Certified *arborist*.

Section 8.16.130: Allocation of Costs of Corrective Action Required as the Result of a View Restoration Permit Decision

The *complaining party* and *vegetation owner* shall each pay 50% of the cost for the lowest bid of the initial corrective action, except when special extenuating circumstances exist, the Planning Commission may determine that a different cost allocation is appropriate. Future maintenance of the *vegetation*, after the initial corrective action, shall be the responsibility of the *vegetation owner*. When there is more than one *complaining party*, the cost of the initial corrective action will be split evenly between the *vegetation owner* and all the *complaining parties*.

Section 8.16.140: Implementation of Decision

Within thirty (30) days after *view restoration permit* takes effect, the *vegetation owner* will obtain at least two bids for the prescribed work from an *arborist* and shall present the bids to the *complaining party*. Within fifteen (15) days after presentation of the bids, the *complaining party* shall deposit with the *vegetation owner* 50 percent (or other allocation as determined by the Planning Commission) of the amount of the lowest bid. The *vegetation owner* shall, at his/her sole discretion, choose the company by which he/she wishes the work done, but the *complaining party* is only responsible for his/her share of the costs of the lowest bid. The *vegetation owner* shall order the work done within fifteen (15) days after receiving the claimant's deposit. The *vegetation owner* shall pay the remainder of the bid amount of the company he/she has chosen. The authorized work of correction shall be done by an *arborist* under the sole direction and control of the *vegetation owner*.

Section 8.16.150: Appeals

Appeals shall be in accordance with §17.72.100 of the Trinidad Zoning Ordinance.

Section 8.16.160: Enforcement and Penalties / Public Nuisance Declared

Because the maintenance of *views* benefits the general welfare of the entire City, *Vegetation*, other than *Dedicated Trees*, which is determined to *unreasonably obstruct views* and which is not corrected in a timely manner, or which is not maintained as required in a *View Restoration Permit*, or *hedges* that exceed the height limitations set forth in § 17.56.110 of the Trinidad Zoning Ordinance are hereby declared public nuisances in accordance with §8.12.040 and subject to the City's nuisance abatement procedures as set forth in Chapter 8.12 of the Municipal Code.

To initiate the nuisance abatement process, the *complaining party* shall notify the City in writing regarding an alleged violation. If a nuisance is determined to exist, as part of the nuisance abatement process, a maintenance agreement adequate to maintain the *vegetation* shall be enacted. It shall be recorded on the deed of the *vegetation owner* and made to run with the land in order to avoid future nuisance abatement.

Section 8.16.170: Liabilities

A Planning Commission decision on a *View Restoration Permit* shall not create any liability of the City with regard to the *Restorative Actions* to be performed.

Failure of the City to enforce provisions of this Chapter shall not give rise to any civil or criminal liabilities on the part of the City.

Section 8.16.180: Limitations

It is not the intent of the City in adopting this Chapter to affect obligations imposed by an existing easement or a valid pre-existing covenant or agreement.

Section 8.16.190: Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

Section 8.16.200: Effective Date

This ordinance shall become effective thirty (30) days after the date of its enactment.

PASSED, APPROVED, AND ADOPTED on this 11th day of January, 2006, by the following vote:

Ayes: Marlow, Bowman, Lin, Heyenga, Cuthbertson
Noes: None
Absent: None
Abstain: None

Attest:

Gabriel Adams
Trinidad City Clerk

Chi-Wei Lin
Mayor

First Reading: January 11, 2006

Second Reading: February 08, 2006