

**CHAPTER 11**  
**CRIMINAL CODE**

**SECTION**

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**GENERALLY**

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**11.1.1      TITLE:**

**This Ordinance is called and may be cited as the "Criminal Code Ordinance on General Offenses" for the municipality of Carrizozo, New Mexico.**

**11.1.2      DEFINITIONS AND RULES OF CONSTRUCTION:**

**"Nuisance" A public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority which is either: 1) Injurious to public health, safety, morals or welfare: or 2) Interferes with the exercise and enjoyment of public rights including the right to use public property.**

**11.1.3      AMENDMENTS:**

**Any amendments to this Ordinance shall be adopted as ordinances as required by State law, and when passed in such form as to indicate the intention to make the same a part thereof, shall be incorporated into this Ordinance so that reference to it as "The Criminal Code Ordinance on General Offenses" shall be understood as including such amendments.**

**11.1.4 PENALTY:**

Any person found guilty of violating any of the provisions of this Ordinance shall be fined not more than five hundred (\$500.00) dollars or imprisoned for a period of not more than ninety (90) days, or by both such fine and imprisonment, and each day this Ordinance is violated shall constitute a separate offense; provided; however, that a specific penalty is provided therefore in any particular and individual section of the Ordinance, then the specific penalty shall prevail.

**11.1.5 SEVERABILITY:**

Should any section, paragraph, clause or provision of this Ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**11.1.6 REPEALER:**

All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

**SECTION 11.2  
GENERAL NUISANCES**

- 11.2.1 Public Nuisances**
- 11.2.2 Nuisances Declared**
- 11.2.3 Outdoor Automotive Storage**
- 11.2.4 Abandoned Wrecks, Non-Operating, Dismantled Or Discarded Vehicles**
- 11.2.5 Dangerous Nuisances**
- 11.2.6 Notice Of Nuisance**
- 11.2.7 Complaint**
- 11.2.8 Penalty**
- 11.2.9 Removal Of Nuisance**
- 11.2.10 Injunctions**

**11.2.1 PUBLIC NUISANCES:**

It is unlawful to commit public nuisance. Public nuisance consists of knowingly creating, performing or maintaining anything affecting any number of citizens without lawful authority, which is either: injurious to public health, safety, morals or welfare, or interferes with the exercise and enjoyment of public rights, including the right to use public property.

**11.2.2 NUISANCE DECLARED:**

In the interest of the inhabitants of the Municipality, it is necessary to prohibit the accumulation of filth, sewage, garbage, refuse, trash, standing or stagnant water, litter, rubbish, ruins, weeds, brush or water matter whatsoever on property within the corporate limits of the municipality by declaring such accumulation a nuisance.

Definitions as used in this section.

1. "Brush" shall mean tree, bush, grass or clippings piled in a manner as to create a potential fire or safety hazard.
2. "Fences" shall mean all wooden, chain link, plastic, steel or metal structures

used as enclosures, separations, security or boundary designations on properties within the Town of Carrizozo.

3. "Garbage" shall mean any discarded household items including but not limited to foodstuffs, house wares, containers, personal hygiene items, cleaning and medical supplies or other common household consumer items.
4. "Graffiti" shall mean any painting or marking of surfaces with symbols, statements, slang, characters or offensive language. Graffiti is typically applied with spray paint, household paints or any other marking materials that can be applied to common surfaces.
5. "Rubbish" shall mean any discarded household items including but not limited to furniture, appliances, containers and building materials.
6. "Sight Line Obstructions" shall mean any man made or natural obstructions including but not limited to fences, structures, shrubs, trees, landscaping or material objects that may cause a potential safety issue if it interferes with the clear sight line of any pedestrian or vehicle traffic on any intersection, alley or street within the Town of Carrizozo. No obstruction over 30 inches in height, measured from the street centerline grade shall be permitted to obstruct a sight line triangle area. The sight line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot. Any existing trees located within the clear sight triangle may be allowed to remain if all branches are trimmed to height of eight feet.
7. "Storage" shall mean the storage of any rubbish, garbage, brush or automotive parts on a trailer, in a vehicle or container of any kind within ordinary public view.
8. "Weeds" shall mean all rank, noxious, poisonous, harmful, unhealthful vegetation or any growth whatsoever OR of an offensive nature OR which is deleterious to health of a height not to exceed 8"(inches).

The following items address conditions subject to this public nuisance ordinance.

- **Unoccupied Premises:** It shall be unlawful for any reason for any person to sweep, place or throw solid waste or other waste materials in or upon any sidewalk, street, alley or unoccupied premises.
- **Unsanitary Premises:** It shall be unlawful for any person to permit or cause to remain in or about his premises any solid waste, weeds, registered or unregistered motor vehicles not in operating condition, waste water or any conglomeration of residue thereof, which emits odors or serves as a feeding or breeding place for flies, insects or rodents.

- **Hazardous premises:** It shall be unlawful for any person to permit in or about his premises weeds, briars, brush or any other solid waste to become in any way hazardous or injurious to public health or to obstruct pedestrian and vehicular traffic.
- **Accumulation of Solid Waste:** It shall be unlawful for any person to allow any solid waste or accumulate upon premises, owned, leased, rented or occupied by him during intervals between the collection thereof, except in the manner herein provided. It shall be unlawful to deposit any solid waste in or upon the streets, alleys, sidewalks, gutters, curbing, storm sewers, parkways, or vacant lots within the municipality, except in the manner and in the receptacles or containers as provided in (E) of this section.
- **Solid Waste Receptacles:** All solid waste receptacles shall be maintained in a clean and sanitary condition by the owner or person using the receptacle, and such receptacles shall be located only in such places as shall be readily accessible for removing and emptying the same, but shall not be placed in such place or position as may constitute a nuisance or obstruction to vehicular or pedestrian traffic.
- **Vegetation management:** It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the Town to allow weeds, brush, grass, bushes or deleterious, noxious or unhealthful growths to lie, grow or be located upon any such property or along any street or avenue adjoining the property between the property line and the curb line or street thereof or on or along any alley adjoining the property between the property line and the center of such alley. However, such prohibition shall not apply to lands primarily agricultural in nature or lands/lots of a natural state of vegetation, except that owners of such lands shall be required to keep weeds down if any obstruction to traffic visibility or safety is caused or if a clear fire hazard from vegetation is caused.
- **Graffiti:** It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the Town to allow graffiti from vandalism or any other purpose to remain on any surface that is visible from ordinary public view. Graffiti from vandalism or any other purpose must be removed or painted over to match the original surface color.
- **Fences:** It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the Town to allow any fence to become unsightly or in a condition of disrepair, including missing boards, panels, fabric or damaged support members. It is also required that fences remain painted, stained or repaired with the original materials and that they have a finished appearance. Property owners may remove fences that are in disrepair or need substantial repairs if this in the opinion of the Town Foreman does not cause

an additional nuisance violation.

- **Sight Line Obstruction:** It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the Town to allow or to cause an obstruction of any sight line for pedestrian or vehicular traffic that may create a safety hazard. No obstruction over 30 inches in height, measured from the street centerline grade, shall be permitted to obstruct a sight line triangle area. The sight line triangle shall be bounded by lines measured 30 feet along the front and side street lines of a corner lot from the intersection of the property lines of such lot and a line connecting points 30 feet distant from the intersection of the property lines of such lot. Any existing trees located within the clear sight triangle may be allowed to remain if all branches are trimmed to a height of eight feet. Clear sight triangles must be maintained according to Land Use and Zoning Article 10 § 9-10-115 (f).
- **Storage:** It shall be unlawful for the owner, agent, lessee or occupant of any lot, tract or parcel of land within the Town to store or accumulate any rubbish, garbage, brush or automotive parts in trailers, vehicles or any other containers in ordinary public view.

#### **11.2.3 OUTDOOR AUTOMOTIVE STORAGE:**

- A. Nuisance Declared.** The presence of an inoperative vehicle or motor vehicle or parts thereof on any occupied or unoccupied land within the Town limits in violation of the terms of this section is a public nuisance.
- B. Definitions, as used in this section:** "Motor Vehicle" means any wheeled vehicle, which is self-propelled or intended to be self-propelled. "Inoperable Motor Vehicle" means any motor vehicle, which by reason of dismantling, disrepair or other cause, is incapable of being propelled under its own power. "Dismantled or Partially Dismantled Vehicle" means any motor vehicle from which some part or parts which are ordinarily a component thereof have been removed or are missing.
- C. Prohibited Acts:** It is unlawful for any person to store on, place on, or permit to be stored or placed on, or allowed to remain on any occupied or unoccupied land within the Town limits a dismantled, partially dismantled or inoperable motor vehicle or any parts of motor vehicles except in a storage area as provided in subsection F below.
- D. Exceptions:** An owner or tenant may store, permit to be stored or allow to remain upon his premises any dismantled, partially dismantled or inoperable motor vehicle or parts thereof for a period not to exceed seventy-two (72) hours if such motor vehicle is registered in his name and, provided further, that any such owner or tenant may, in the event of hardship, secure a permit from the

Town to extend such period of seventy two (72) hours for an additional period not to exceed one (1) week.

- E. **Permit:** Upon application by the registered owner of a motor vehicle covered by this section and upon the proof of hardship, the Police Department or its authorized agent is hereby authorized to issue the permit provided-for above and shall require the payment of one dollar (\$1.00) for each permit issued.
- F. **Storage Area:** An owner may store a dismantled, partially dismantled or inoperable motor vehicle or the parts of a motor vehicle, provided such vehicles and parts and the outdoor storage areas are maintained in such a manner that they do not constitute a health, safety, or fire hazard and are effectively screened from ordinary public view by means of a solid fence. All storage areas shall be kept free of weeds, trash, refuse, garbage, and any other objectionable items.

**11.2.4 ABANDONED WRECKS, NONOPERATING, DISMANTLED OR DISCARDED VEHICLES:**

- A. **Definitions:** The following definitions shall apply to interpretation and enforcement of this Article.
  - a. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
  - b. "Vehicle" shall mean a machine propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy or wagon.
  - c. "Street or highway" shall mean the entire width between the boundary lines of every publicly maintained roadway when any part thereof is open to the use of the public for purposes of vehicular travel.
  - d. "Property" shall mean any real property within the Town of Carrizozo which is not a street or highway.
- B. **Abandonment of Vehicles:** No person shall abandon any vehicle within the Town and no person shall leave any vehicle at any place within the Town for a period not to exceed 72 hours and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

- C. Leaving of Wrecked: Non-operating Vehicle on Street:** No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street or highway for a period not to exceed 72 hours within the Town.
- D. Disposition of Wrecked or Discarded Vehicles:** No person in charge or control of any property within the Town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days; and no person shall leave any such vehicle on any property within the Town for a longer time than thirty (30) days, save and except that this section shall not apply to a vehicle in any enclosed building or on property which is enclosed with a fence or wall so that said vehicle is not visible from adjoining or surrounding property or from the street or highway or public ways. This section shall not apply to a vehicle or vehicles on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise or to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.
- E. Failure to Display Current Registration. Presumptions:** For purposes of this Article, any vehicle not displaying the current year's vehicle registration sixty (60) days after the legal deadline for such registration each year shall be presumed to be abandoned or discarded, provided the exceptions of section (D) hereof do not apply to said vehicle.
- F. Impounding:** The Chief of Police or his/her uniformed designee is hereby authorized to remove or have any vehicle removed that is left at any place within the Town which reasonably appears to be in violation of this Article or lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed and disposed of in accordance with the provision of N.M.S.A. 3-46-32 to and including 4-46-36, 1978 Comp. which provides for the disposal of unclaimed personal property by municipalities.
- G. Severability:** If any of the subsections, sentences, clauses, or phrases of this section are for any reason held to be unconstitutional or invalid, the validity of the remaining portions of this section shall not be thereby affected, since it is the express intent of the Town Governing Body to adopt each subsection, sentence, clause or phrase of this section separately.

#### **11.2.5 DANGEROUS NUISANCES:**

- A. No owner or occupier of land or buildings shall cause or knowingly permit**



said property to become or remain in a condition constituting a menace to health or safety by the accumulation of filth, sewage, garbage, refuse, trash, standing or stagnant water, litter, rubbish, ruins, weeds, brush or water matter whatsoever.

- B. No person shall allow or cause sewage, garbage, filth, refuse or liquid waste to be discharged or to penetrate or to drain from premises occupied by him into or upon the premises of another except through those sewage facilities provided by the municipality.
- C. No person shall allow or cause the pollution of water used for domestic purposes or the discharge into any moving water of sewage, refuse, filth, or other hazardous or poisonous matter.
- D. No person shall cause or permit the escape of noxious fumes, gas, smoke or odor from premises owned or occupied by him to premises owned or occupied by another or to any place where the same shall be offensive or constitute a danger to the general public.
- E. Whenever any building or structure is ruined, damaged, dilapidated or any premises covered with ruins, rubbish, wreckage, or debris, the Governing Body of the Municipality may, by resolution, find that the ruined, damaged, dilapidated building, structure or premises is a menace to the public comfort, health, peace, or safety and require the removal from the municipality of any building, structure, ruins, rubbish, wreckage, or debris by proceeding in compliance with N.M.S.A. 3-18-5,1978 Comp.

#### **11.2.6 NOTICE OF NUISANCE:**

The Chief of Police and/or any municipal police officer, upon observing any violations of this Article, shall issue a Notification of Violation directed to the owner of record of the property on which the nuisance occurs, or to the occupant or tenant of the property, or both. The Notification of Violation shall describe the violation and shall establish a reasonable time limit for abatement thereof by the owner or occupant or tenants, which limit shall not be less than two (2) days or more than thirty (30) days after service of the Notification of Violation. The Notification of Violation may be served either personally or by certified, return receipt requested at the owner's or occupant's last known address.

#### **11.2.7 COMPLAINT:**

In the event the owner or occupant of the property where the nuisance violation of this Article exists has failed, within the prescribed time, to abate the nuisance, then any municipal Police Officer shall issue a citation charging violation of this Article with the Municipal Court demanding that the owner of the property or the occupant thereof, or both, be held to answer to the Court for the violation of this Article.

**11.2.8 PENALTY:**

It is the goal of the Town to try to effect voluntary compliance through cooperation with those persons and businesses not in compliance with the provisions of this chapter. To this end, the Town Foreman or Municipal Police Officer have, at their discretion, the ability to make aggressive compliance schedules for abovementioned persons and businesses. In the event that these measures do not effect significant and timely voluntary compliance, the person or business owner may be issued a citation for violation of this chapter.

Any person or business pleading no contest or found guilty of violating, disobeying, omitting, failing to obtain necessary permit, neglecting or refusing to comply with, or resisting or opposing the enforcement of any provision of this chapter, except when otherwise specifically provided in the ordinance, shall be subject to a fine of not more than \$500 or imprisonment of up to 90 days or both. Each day of which such violation continues after notification thereof shall constitute a separate offense.

**11.2.9 REMOVAL OF NUISANCE:**

In the event that a person is convicted of violation of this Article and still refuses to remove the junk, trash or refuse, the municipality may enforce this section in any manner consistent with law. Should the person refuse or fail to pay the assessment, the municipality shall collect such assessment as provided by law.

**11.2.10 INJUNCTIONS:**

The Chief of Police, when a nuisance exists as set forth in this Article, may maintain a complaint in the name of the municipality, perpetually, to enjoin all persons from maintaining or permitting the nuisance and to abate the same.

**SECTION 11.3**  
**DRINKING IN PUBLIC**

**11.3.1 DRINKING IN PUBLIC:**

**Drinking in public consists of drinking or consuming alcoholic liquors, wine, beer or other distilled liquids. It shall be unlawful for anyone to drink in public in any Town-owned park, building, or property in which drinking is expressly prohibited, unless the Town Board of Trustees permits such drinking on public property, by prior-approved Resolution.**