

CHAPTER 3

BOARDS AND COMMITTEES

SECTION

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SECTION 3.1 ABSENCE OF BOARD OR COMMITTEE

3.1.1 In the absence of a committee or board properly constituted and/or appointed by the governing body of the Town of Carrizozo, the Trustees themselves shall constitute each such board or committee.

SECTION 3.2 PLANNING & ZONING COMMITTEE

3.2.1 PLANNING AND ZONING COMMITTEE

A. **ESTABLISHED; Purpose:** The planning and zoning committee is hereby established for the purpose of preparation and updating of the comprehensive plan or other specific plans through various means such as zoning, subdivisions, annexation and other related techniques to promote the general welfare of the Town and to secure efficiency, economy and concerted effort in its growth and development and carry out the purpose of this article as set out in section 4.4.3, and the duties as set out in (e) of this section. The planning and zoning committee may be referred to in this article as the "committee".

B. **MEMBERSHIP; APPOINTMENT OF MEMBERS, COMPENSATION OF MEMBERS:** The planning and zoning committee shall consist of five (5) members, who shall be residents of the Town representing, insofar as possible, different professions or occupations. Members shall be appointed by the mayor with the

approval of the majority vote of the trustees. The Town Clerk or a member of the clerk's staff as an alternate member may be appointed in addition to the five regular members at the discretion of the trustees of the Town of Carrizozo. Members of the planning and zoning committee shall serve without pay of any kind except actual expenses.

C. TERM OF MEMBERS; REMOVAL OF MEMBERS; VACANCIES: The terms of members of the planning and zoning committee shall be two years, with staggered terms, with three (3) of the members' terms expiring in March of even-numbered years and two (2) of the members terms expiring in March of odd-numbered years. All members shall hold office until their successors are appointed and qualified. Any members of the planning and zoning committee may be removed by the mayor with the consent of the majority vote of the trustees for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term by the mayor with the approval of majority vote of the trustees.

D. OFFICERS; MEETINGS AND RULES OF PROCEDURES; The planning and zoning committee shall elect a chairman from the members of the committee and shall create and fill such other of its offices as it may determine. The chairman shall be eligible for reelection. The committee shall meet as needed such time and place as may be fixed by the committee. Special meetings of the committee may be called by the chairman; or by any three members of the committee. A majority of three members shall constitute a quorum for the transaction of business.

The committee may adopt such other rules and regulations governing its organization and procedures as it may deem necessary so long as they are not inconsistent with this article and the laws of the state. The committee shall keep a record of its resolutions, transactions, findings, policies and determinations, and this record shall be a public record.

E. DUTIES: It shall be the duty of the planning and zoning committee to:

1. Submit and recommend to the trustees a proposed official zoning map and recommend whatever regulations and restrictions concerning the erection, construction, reconstruction, alteration, repair or use of buildings, structure or and it shall deem to be in the best interest of the town and its inhabitants.
2. Hold a public hearing on all requests for variances, conditional uses and zone changes and initial zoning and forward its recommendations to the trustees.

- 3. Recommend to the trustees any amendments to this article that may be needed concerning the platting or use of land in any zone, or restrictions upon buildings or structure therein.**
- 4. Review or delegate review of site plans for multiple-dwelling, commercial and industrial developments and determine the appropriate action and requirements for each site plan of the development as set out in this article.**
- 5. Make determinations and decisions regarding conditional uses as provided for in this article.**
- 6. Make recommendations to the trustees on matters regarding the interpretation, enforcement and administration of this chapter, pertaining to subdivisions.**
- 7. Vary or adjust the strict application of the requirements of this article in the case of an irregular, narrow, shallow or steep lot or other physical conditions applying to a lot or building as a result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by this article. Variances may be granted only for proven undue hardships related to the physical characteristics of land. Variances to this article related to permitted, accessory and /or conditional uses in any zone shall not be allowed. No variance or adjustments in the strict application of any provision of an ordinance may be granted unless:
 - a. Special circumstances or conditions, fully described in the committee's findings, are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of the ordinance from which this article is derived. Sub-standard lot size shall be considered a special circumstance.**
 - b. For reasons fully set forth in the committee's findings, the circumstances or conditions are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment what will accomplish this purpose; and**
 - c. The granting of the variance is in harmony with the general purpose and intent of this article and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.****

3.2.2 ADMINISTRATION

A. Amendment Procedure:

a. Application and Fees

Amendments to the map or text of this Ordinance are initiated by application to the Municipality on prescribed forms. Each application must be accompanied by accurate plot plan, site plan, building development plan, sketch, program of development, or other related material and information as required by the Municipality. After an application for rezoning is advertised for public hearing by the Planning and Zoning Committee, another application for a change may not be filed on the same property within 12 months from the date of final action by the Municipality on the application. An application fee for map amendments must be charged as follows:

- i. Less than one (1) acre - \$50.00**
- ii. One (1) acre but less than five (5) acres - \$60.00 for the first acre plus \$10.00 for each additional acre.**
- iii. Five (5) acres but less than 20 acres - \$100.00 for the first five (5) acres plus \$5.00 for each additional acre.**
- iv. Twenty (20) acres but less than sixty (60) acres - \$175.00 for the first 20 acres plus \$3.00 for each additional acre.**
- v. Sixty (60) acres and in excess of - \$295.00 for the first 60 acres plus \$1.00 for each additional acre.**

When an application is withdrawn after advertising for public hearing by the Planning and Zoning Committee, the filing fee will not be refunded. No fees will be charged for changes made within one year from the date of passage of this Ordinance.

b. Hearings:

- i. PLANNING AND ZONING COMMITTEE –The Committee must consider each application, and if approved must promptly make a written recommendation to the governing body. The committee must fix a regular time and place for the regular meetings.**

Special public hearings may be held at other than the established regular time or place provided public notice of the meetings is given at least 24 hours in advance. The committee must keep minutes of its proceedings, including a record of the vote of each member on each question, and the minutes must be public records.

Public notice of the hearings at which the application is to be considered must be given by at least one publication in a newspaper of general circulation in the Municipality at least 15 days before the date of the hearing and, in the event of application for changes to the Zone Map, also by mailing written notice by certified mail, return receipt requested, not less than five days before the date of the hearing to the owners of all property within the area proposed to be changed and to all owners of property within 100 feet of the exterior boundaries, excluding public right-of-way, of the area proposed to be changed, and to all owners of property within 100 feet of the exterior boundaries, excluding public right-of-way, of the area proposed to be changed, using for these purposes the last known name and address of the owners shown in the records of the County Assessor.

- ii. TRUSTEES – Public notice of the meeting at which the Trustees will consider a recommendation from the Committee on an application must be given by legal advertisement by at least one publication in a newspaper of general circulation in the Municipality at least 15 days before the meeting.

c. EXPIRATION OF APPROVAL:

- i. An application for an amendment is void if not submitted to the Trustees within six (6) months after the date of recommendation by the Committee, or if not approved by the Trustees within three (3) months after receipt of a recommendation for the Committee, except that no application shall be voided by any delay caused by the Municipality.
- ii. An approval of change to the official Zone Map by the Trustees is void if requirements prerequisite to publication of the implementing ordinance are not met within two months after the date of Trustees approval.

d. APPEALS

i. Appeal of a denial by the Committee may be submitted in writing to the Trustees within 15 days after the date of determination by the Committee. The day of determination by the Committee is not included in the 15 day period for filing of appeal, and if the 15th day falls on a Saturday, Sunday or national holiday, the next working day is considered as the deadline for filing the appeal. The building permit must not be issued until an appeal is decided or the time of filing the appeal has expired. If a written protest is signed by the owners of 20% or more either of the area of the lots or lands included in the proposed change, or of those immediately adjacent within 100 feet of the area proposed for change, disregarding public ways, the change to the Zone Map requires the concurring vote of at least four (4) members of the Trustees.

1. Written notice of appeal must be filed with the office of the Zoning Administrator or other representative authorized by the Trustees.
2. Public notice of an appeal must be given by legal advertisement in the manner prescribed for a change to the text of this Ordinance. The Municipality must give written notice of an appeal together with notice of the hearing date to the applicant, a representative of opponents, if any, and the appellant. The appeal must be presented to the Trustees within three months after the date of filing. Once the appeal is presented to the Trustees, a request for delay in hearing the appeal must be acted upon at regular Trustees meeting.

3.2.3 BOARD OF ADJUSTMENT

A. Establishment and Organization: The Town Trustees shall serve as the board of adjustment.

B. Fees – Any application made to the Board of Adjustment shall be in writing on prescribed forms. A fee of \$25.00 per application shall be charged at the time of application and shall be payable to the Town of Carrizozo. No fee once paid shall be refunded following an administrative review or interpretation by the Board of Adjustment nor shall there be any charge of an amendment to the text of this Ordinance.

C. Appeals- Any determination by the Board of Adjustment shall be final unless written notice of appeal to the Trustees is filed within 15 days after the determination by the Board of Adjustment. The day of determination by the Board of Adjustment shall not be included in the 15-day period for filing of the

appeal, and if the 15th day falls on Saturday, Sunday or national holiday, the next working day shall be considered as the deadline or the time for filing such an appeal has expired. The concurring vote of at least four-fifths of all members of the Trustees shall be required to reverse any determination by the Board of Adjustment. The same method of advertising and hearing the appeal shall be followed as is the case with zone changes requests heard by the Planning and Zoning Committee.

D. Powers and Duties- the Board of Adjustment shall hear and decide any application made under this subsection and in so doing shall comply with the additional requirements herein:

- a. The Board of adjustment shall record each decision by written resolution, each of which shall contain a statement of findings of fact.
- b. When approving any application, the Board of Adjustment shall impose conditions as required by this Ordinance together with such additional conditions as deemed necessary to safeguard the public welfare, safety, health, morals, convenience, and best interest of adjoining property owners and neighborhood.
- c. The Board of Adjustment may approve an application only when it is wholly convinced and only on the basis of full and complete hearing finds that the intended use will not, in the circumstance of the particular case under conditions that the Board of Adjustment imposes, be substantially or permanently injurious to the neighborhood and appropriate use of adjoining property, or otherwise be detrimental to the public welfare, safety, health, morals, or Ordinance.
- d. Any Board of Adjustment member who has a personal interest or a conflict of interest in any case shall disqualify himself from the discussion and voting on the case.

E. Special Exceptions:

- a. **Conditional Use-** May be approved provided the use is deemed by the Board of Adjustment to be desirable or essential to the public welfare, safety, health, morals, or convenience or to be important to the development of an undeveloped area. Such Conditional Use shall be limited to the enumerated as permissible in the various zones.
- b. **Variance-** From the strict application of any height, area or setback requirement of this Ordinance may be approved in the

case of exceptionally irregular narrow, shallow, or steep lot, or other exceptional physical condition, where such strict application of the requirements of this Ordinance would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building, but in no other case. Practical difficulty or unnecessary hardship shall not be found when financial gain or loss on monetary saving is the sole basis for the claim of hardship.

- c. **Non-Conforming Use Plans-** For expansion or enlargement of a building which is non-conforming as to use may be approved, provided such expansion or enlargement shall not exceed 25% of the floor area of the building as it existing at the time it became non-conforming, and such new construction authorized under the provisions of this subsection shall be removed or converted to a conforming building at the same time as the original building is removed or converted to a conforming building as required by this Ordinance. Such approval of expansion of a non-conforming building may be granted only when the Board of Adjustment finds that the applicant will be denied a continued reasonable use of the property if the expansion is not approved.

F. Expiration and Extension of Special Exception Approval and Violation of Conditions:

- a. **Expiration –** Approval of any special exception application shall be void after six months from date of approval if the rights and privileges granted thereby have not been executed or utilized, or, if construction work is involved, such work has not actually been started on the grounds or premises within this six months. Such approval also shall be void if any rights and privileges are discontinued for a period of six months or longer. The Board of Adjustment may extend such expired approval upon request and if it does, the request for extension shall be treated as an original application for all purposes of notification, hearing and evaluation, and the original approval shall not in any way obligate the Board of Adjustment to approve the extension nor restrict the Board of Adjustment from imposing different or additional conditions.
- b. **The Zoning Administrator-** Shall have the duty of enforcing this Ordinance and in addition shall act as follows:
 - i. **Issue all zoning certificates and maintain records thereof.**

- ii. **Inspect all buildings, structures or land use periodically to determine compliance with this Ordinance.**
 - iii. **Maintain permanent complete records of this Ordinance including any amendments, conditional use permits, variances, appeals, and other important information.**
 - iv. **Attend all meetings of the Board of Adjustment and the Planning and Zoning Committee.**
 - v. **Upon finding a violation of the Ordinance, shall act to assure remedy of the situation including but not limited to initiation of any action appropriate to prevent, abate, restrain or correct the violations; he may prevent occupation of such a building, structure, or land, and may act to prevent any illegal procedure, conduct, business, or use in or about the property in question.**
 - vi. **Investigate all applications for Conditional Use Permit of building structure, or land: variance from setback regulations; and requests for Expansion of Non-conforming uses of buildings or structures.**
 - vii. **Shall investigate and make a written report with recommendations for or against and giving reasons for recommended action on each case or request submitted.**
- c. **Zoning Certificate- A building permit shall not be issued by the Building Inspector or other person authorized to issue building permits until the application for such a permit has been examined by the Zoning Administrator who has affixed to it a certificate indicating that the proposed building, structure or use complies with all the regulations of this Ordinance. Where no other permit is required for the use of land, this Zoning Certificate shall be deemed as a permit sufficient to so use the land. Any permit or certificate of occupancy issued in conflict with the provisions of this Ordinance shall be null and void.**
- d. **Violation of any condition imposed by the Board of Adjustment in approving an application shall constitute a violation of this Ordinance and shall be subject to the same penalties as any other violation of this Ordinance. Any condition imposed by the Board of Adjustment shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by approval of an application.**

**SECTION 3.3
LIBRARY BOARD**

- 3.3.1 APPOINTMENT: TERM:** The Mayor, with the consent of the Board of Trustees, may appoint a Library Board consisting of the five (5) members, one or all of whom may be members of the Board of Trustees. Such Directors shall hold office for three (3) years from the date of appointment and until their successors are appointed: Provided however, upon their first appointment they shall divide themselves at their first meeting by lot, into three (3) classes: two (2) members shall form the first class and shall serve for one (1) year: two (2) members shall form the second class and shall serve for two (2) years: and one (1) member shall form the third class and shall serve for three (3) years. No compensation shall be paid or allowed to any member of the Library Board in any manner whatsoever.
- 3.3.2 ORGANIZATION AND POWERS:** The Library Board shall immediately after their appointment meet and organize by the election of one of its number as President and by the election of such other officers as may be expedient. They shall have exclusive control of the expenditure of all moneys collected and the supervision, care and custody of all buildings. They may appoint a librarian and assistant and prescribe rules for their conduct.

**SECTION 3.4
CARRIZOZO RECREATION BOARD**

3.4.1 Until a superseding Ordinance is adopted, the Carrizozo Recreation Board shall consist of the Board of Trustees of the Town.

**SECTION 3.5
CEMETERY BOARD**

- 3.5.1 Authorization**
- 3.5.2 Cemetery Board**
- 3.5.3 Appointment of Members, Terms, Qualifications**
- 3.5.4 Execution of Deeds to Burial Lots**
- 3.5.5 Powers and Duties of Cemetery Board**
- 3.5.6 Sale of Cemetery Plots/Fees**

3.5.1 AUTHORIZATION: Article 3-40-2, N.M.S.A.

3.5.2 CEMETERY BOARD: There is hereby created the "Cemetery Board of the Town of Carrizozo" to care for, manage and control the Municipal Cemetery.

3.5.3 APPOINTMENT OF BOARD: The Cemetery Board of the Town of Carrizozo shall, until a superseding ordinance is adopted, consist solely of the deputy clerk of the Town.

3.5.4 EXECUTION OF DEEDS TO BURIAL LOT; The Municipality in disposing of a burial lot may execute a deed conveying title to a purchaser. The deed is to be executed by the Mayor, attested to by the Clerk and bear the seal of the Municipality.

3.5.5 POWERS AND DUTIES OF CEMETERY BOARD: The Cemetery Board shall:

- (A) Take charge of the Cemetery belonging to the municipality:**
- (B) Have the management of the Cemetery:**
- (C) Recommend rules and regulations for the operation, management, care and custody of the cemetery:**
- (D) Recommend employment of employees necessary for the care, maintenance and beautification of the cemetery:**

- (E) Prescribe the manner and place of the burials:**
- (F) Maintain an accurate and up-to-date map and record of the cemetery reflecting the current ownership of all cemetery burial lots.**

**SECTION 3.6
LODGER'S TAX COMMITTEE**

3.6.1 **Until a superseding Ordinance is adopted, the Lodger's Tax Committee shall consist of the Board of Trustees of the Town.**