

**CHAPTER 4**  
**MUNICIPAL SERVICES**

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4.1.1 **WATER UTILITY ESTABLISHED:** The Town of Carrizozo water system is hereby declared to be for the health, safety and welfare of the residents of the Town of Carrizozo.

4.1.2 **APPLICABILITY:** This ordinance shall govern production, maintenance, supply and use of water in the Town of Carrizozo, New Mexico for domestic, commercial or industrial purposes.

4.1.3 **DEFINITIONS**

- A. "Air-Gap" shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor and the flood level rim of the receptacle.
- B. "Applicant" shall mean any person who has applied to Town Hall for a connection to the service.
- C. "Back Flow" shall mean the reversal of water flow into a potable water system.
- D. "Bulk Water Purchaser" shall mean any person who purchases bulk water from The Town of Carrizozo for use without reselling the water to third parties.
- E. "Commercial Consumer" shall mean rooming houses, hotel, camp, cabin camp, motel, motor court, trailer court or sports field, church, school and any other institution or place where professional services are offered or any commercial enterprise or business activity is conducted.
- F. "Consumer" shall mean any person who is receiving the service.

- G. "Cross Connection" shall mean an actual or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances, would allow such substances to enter to potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non-potable), or any matter that may change the taste, color or odor of the water.**
- H. "Governing Body" shall mean the Trustees of the Town of Carrizozo, New Mexico.**
- I. "Occupied" shall mean actual use and possession of a structure and/or area for the purpose for which it is designed.**
- J. "Penalties" shall mean penalties as provided by Section 4-1-23 hereunder.**
- K. "Person" shall mean individuals, partnerships, corporations, associations, societies, clubs and any other entities and shall be construed to include both the masculine and feminine gender.**
- L. "Private Well" shall mean any water well in existence before water service becomes available or in the future which is used solely for irrigation or agricultural purposes.**
- M. "Regulations" shall mean regulations proposed by the superintendent and approved by the Governing Body.**
- N. "Rental Unit" shall mean a structure and/or an area within a structure used by a tenant for which a periodic payment is made.**
- O. "Residential Consumer" shall mean a single family residence or dwelling place, including an individual apartment or each unit of a multiple residential dwelling, where service is utilized only for domestic purposes.**
- P. "Service Unit" shall mean each location requiring service that is under separate ownership, occupancy, or lease including each owner, tenant or occupant utilizing a portion of a single building or location.**
- Q. "Service" shall mean the sale or supply of water and water service by the Town of Carrizozo to property owners or consumers. Town of Carrizozo will provide water service on a best effort basis but in no case shall water availability be guaranteed.**

- R. "Statement" shall mean statement of account or bill prepared by the Town of Carrizozo that itemizes the monthly water usage and amount owed based on the current rate schedule.
- S. "System" shall mean the municipal water system owned and operated by the Town of Carrizozo, New Mexico.
- T. "Town" shall mean the Town of Carrizozo, New Mexico.
- U. "Water Hauler" shall mean any person who purchases bulk water from the Town of Carrizozo for the purposes of resale.

#### **4.1.4 WATER DEPARTMENT FOREMAN**

It shall be the duty of the Foreman to supervise and manage the System. The Foreman shall be empowered with the enforcement of this ordinance and with the operation, construction, maintenance, repair, and replacement of the System. The Foreman shall be responsible for all connections to the system. The Foreman shall perform such duties in connection with the operation of the system as the Governing Body may prescribe. The Foreman shall propose for approval such regulations that may be responsible and necessary to implement this ordinance.

#### **4.1.5 MANAGEMENT, RULES, REGULATIONS AND SPECIFICATIONS**

The Town of Carrizozo shall adopt and enforce rules and regulations, for the safe, efficient, and economic management of the System. Any construction and connection to the water system shall be in compliance with applicable statutes, ordinances, regulations and codes.

#### **4.1.6 CONNECTION PERMIT REQUIRED**

All service connections shall be made only by the Town of Carrizozo and only upon receipt of a written application signed by the owner, or owner's agent accompanied by payment of all required fees. Connection without payment is a criminal offense subject to prosecution and imposition of all penalties as provided in Section 4-1-24.

#### **4.1.7 USE OF FUNDS**

The funds received from the water charges and from permits to make connections or opening into the municipal water system shall be receipted into the "utility fund" of the Town. All funds received shall

be used for the operation, maintenance and extension of the water system and for the retirement of water bonds as provided by law. The Utility Fund shall be audited annually by an approved Independent Public Accountant.

**4.1.8 METERING**

Each consumer shall have a separate meter for each structure at which water service is received.

**4.1.9 DEPOSIT**

Prior to the initiation of water service to any property, the Town of Carrizozo shall collect a \$100.00 deposit. The deposit shall be held as security for the performance of the consumer's payment obligations, and shall be returned without interest upon water disconnection and full payment of the consumer water bill.

**4.1.10 WATER SERVICE CONNECTIONS DURING NEW CONSTRUCTION OF PROPOSED LINES**

- A. Service location requests within seventy-five (75) feet of the proposed water distribution lines will be issued a connection permit upon proper application in accordance with Section 4.1.13 and payment of all fees.**
- B. The precise location where an individual connection to the Town water system is to be made, will be determined by the Foreman. For connection locations outside municipal boundaries, or for extraordinary installations requiring additional municipal labor and materials, an additional charge may be assessed.**
- C. Consumers will be responsible for constructing their own service line up to the municipal meter box location, including the installation of a cut-off valve on the consumer's property, prior to the Town of Carrizozo installing the meter and making the water connection.**
- D. All new lots created after water service is available must be served from the municipal water System. No new or undeveloped lots will be allowed to install private wells to provide for household water requirements. The provisions of this paragraph do not prevent existing lots from continuing use of private wells. Existing private wells must be on record with the Town of Carrizozo and the State Engineers Office.**
- E. A water tap fee will be charged for all new water tap installations.**

<u>Size of Meter</u>	<b>Residential Water Tap Fee</b>	<b>Commercial Water Tap Fee</b>
3/4"	\$1,000.00	\$1,250.00
1"	\$1,250.00	\$1,350.00
1 1/2"	\$NA	\$1,500.00
2"	\$NA	\$1,750.00
4"	\$NA	\$2,000.00

- F. The water tap fee encompasses a service line from the tap in the municipal distribution line to the property line of the consumer, as well as the meter and miscellaneous fittings and valves to install the meter in the meter box.
- G. In addition to the tap fee, the Town of Carrizozo shall charge a \$10.00 connection fee and a \$20.00 fee for the installation of a back flow preventer.

**4.1.11 WATER SERVICE CONNECTIONS - EXISTING LINES**

- A. Existing service connections not requiring physical relocation will be issued a connection permit upon proper application and payment of all fees.
- B. A \$500 relocation fee, plus the cost of all necessary materials, will be imposed where existing service connections require physical relocation of the existing tap. The precise location where an individual connection to the Town water system is to be made, will be determined by the Foreman.
- C. Consumers will be responsible for ensuring the operating condition of their own service line, from their property line to the meter box, including a cut-off valve on their property, prior to the Town of Carrizozo installing the meter and making the water connection.
- D. The Town of Carrizozo shall charge a \$10.00 connection fee for all water service connections. The water connection fee includes a service line from the tap in the distribution line to the property line of the consumer meter box and meter, as well as miscellaneous fittings and valves to install the meter in the meter box. The connection fee is subject to price increases as meter, meter box, service line, miscellaneous fittings and construction costs increase and are adjusted by the Governing Body.
- E. The Town of Carrizozo shall charge a street cut permit fee of \$450.00 for the replacement of any unpaved streets and \$650.00 for paved streets within the town limits of the Town of Carrizozo when the installation of a water

line requires the cutting of a street. The street cut fee is subject to price increases as the cost of materials or the size of the cut may vary.

#### **4.1.12 MONTHLY WATER SERVICE RATES**

- A. Water service shall be furnished and billed to residential consumers and commercial consumers without the Town limits at the following monthly rate schedule according to service meter size:**

**<sup>3/4</sup>" residential meter minimum usage 4,000 gallons per month - \$25.50 per month. Additional water at \$3.25 per 1,000 gallons (or part of) after.**

**<sup>3/4</sup>" commercial meter minimum usage 4,000 gallons per month - \$26.50 per month. Additional water at \$3.25 per 1,000 gallons (or part of) after.**

**1" residential meter minimum usage 4,000 gallons per month - \$25.50 per month. Additional water at \$3.25 per 1,000 gallons (or part of) after.**

**1", 1 1/2" or 2" commercial meter minimum usage 4,000 gallons per month - \$26.50 per month. Additional water at \$3.25 per 1,000 gallons (or part of) after.**

- B. Applicability. Service under this schedule is applicable to individually metered service units for all water users.**

- C. For service provided outside of the Town limits, the water service rates shall be:**

**<sup>3/4</sup>" residential meter minimum usage 4,000 gallons per month - \$38.25 per month. Additional water at \$4.88 per 1,000 gallons (or part of) after.**

**<sup>3/4</sup>" commercial meter minimum usage 4,000 gallons per month - \$39.75 per month. Additional water at \$4.88 per 1,000 gallons (or part of) after.**

**1" residential meter minimum usage 4,000 gallons per month - \$38.25 per month. Additional water at \$4.88 per 1,000 gallons (or part of) after.**

**1", 1 1/2" or 2" commercial meter minimum usage 4,000 gallons per month - \$39.75 per month. Additional water at \$4.88 per 1,000 gallons (or part of) after.**

#### **4.1.13 WATER HAULER AND BULK WATER PURCHASER DEPOSIT AND RATES**

- A. If a water hauler or commercial bulk water purchaser wishes to be billed on a monthly basis for water purchased from the T.O.C, a \$20.00 administration fee (one-time fee) and a deposit of \$300.00 (refundable) will be required.**

- B. The minimum rate for hauled water and purchased bulk water for commercial usage will be \$20.00 per any part up to 1,000 gallons. Additional water will be billed at \$5.00 per any part of 1,000 gallons thereafter. Projected use of water that exceeds 50,000 gallons of water will be allowed only with specific approval of the Town of Carrizozo Foreman.**
- C. The minimum rate for purchased bulk water for residential usage by the resident will be \$10.00 for any part up to 1,000 gallons. Additional water will be billed at \$10.00 per any part of 1,000 gallons thereafter in any single trip.**
- D. The Foreman has the duty to control water hauling and bulk water purchases, and to restrict the excessive use of water, or the place from which the haulers may obtain the water.**

#### **4.1.14 BILLING AND CONNECTION CHARGES**

**The Foreman shall establish a system by which the water meter of each consumer shall be read monthly. Monthly water statements shall be furnished to each consumer, based upon the rates established in this ordinance. Water statements shall be due and payable not later than the twentieth of each month.**

#### **4.1.15 DELINQUENCIES AND DISCONNECTIONS**

- A. If any consumer fails to pay the monthly water charges by the date due, (the 20<sup>th</sup> of each month), a late payment charge of \$2.50 will be added to the account. The Town of Carrizozo will impose a Twenty-Five Dollar (\$25.00) fee on all returned checks. Cash or certified funds will be required for paying the total of the water charges and the returned check fee.**
- B. The Town of Carrizozo may cause water service to be disconnected and may discontinue service to the service unit if any charge provided herein remains unpaid by the last day of the month. A delinquent notice may be sent out on or after the 21<sup>st</sup> of the month stating that service will be disconnected if not paid by the last day of the month, (unless the last day of the month falls on a weekend, in which case the last day to pay is the next regular business day).**
- B. When water has been disconnected for delinquent charges, water service may not be restored to the delinquent consumer until all arrears have been paid or arrangements have been made for payment, together with a reconnection fee of \$50.00 plus the \$10.00 connect fee. The \$50.00 fee may be waived one-time by the Mayor at his sole discretion.**



#### **4.1.16 TERMINATION OF SERVICE**

In the event any consumer desires to terminate their water service, the consumer must complete a disconnection form and submit it to Town Administration. The balance on the account is to be paid in full, or the consumer's deposit may be applied to that balance with the remainder of the deposit (if any) being refunded to the consumer. If the balance owed on the account is more than the deposit, the consumer will owe the difference.

#### **4.1.17 EXTENSIONS OF MAIN LINES FOR NEW CONSTRUCTION - Outside Town Limits**

Service requests at a distance greater than 75 feet from an existing distribution line will require extension of the distribution mains. The extension of the distribution main(s) and associated facilities shall be in accordance with the Town of Carrizozo's line extension regulations and at the consumer's expense. Extensions shall comply with the following provisions:

- A. Line Standards:** The maximum line diameter of the main shall be as required to service consumers, and the Town of Carrizozo at its option, may require an engineering analysis of the system to verify such line diameters. Water line extension plans must comply with all applicable codes and standards. Construction of any main line extension shall be performed by a licensed contractor.
- B. Approval of Plans:** Drawings of the proposed mainline extension layouts shall be submitted to the Town of Carrizozo for approval before any construction is started. The drawings shall show the location and size of all mains and service lines, and the location and size of all appurtenances including valves, fire hydrants and meters. All new construction shall comply with Town of Carrizozo specifications. Spacing of fire hydrants shall be no more than five hundred (500) feet apart.
- C. Right-of-Way:** It shall be the responsibility of the consumer extending the water main to obtain consent for the use of the rights-of-way and utility easements necessary for connection to the Town of Carrizozo water system. The Town of Carrizozo shall require the consumer to submit written certification of approval to cross private property or of the existence of public or private utility easements.
- D. Acceptance of Water Line Extension:** Once a main line extension is constructed, the Town of Carrizozo will inspect it for conformance to applicable standards and specifications, and may require such tests and other evidence it deems necessary to ensure compliance with such standards and specifications.

- E. Ownership: Upon completion of the line extension by the contractor, and upon acceptance by the Town of Carrizozo of the line extension and appurtenances, all material within the public right-of-way or utility easement shall become the property of the Town of Carrizozo**

#### **4.1.18 FINAL AUTHORITY**

**The Foreman shall have the final authority to determine the size and location of all water facilities used in connection with the system and in particular shall have the final authority to determine the sizes of water and main lines and water meters which are to be utilized for making connection to the system. A separate connection and water meter shall be required for each consumer within the water system. All fixtures and facilities connected to the system shall be installed in compliance with all applicable statues, ordinances and regulations.**

#### **4.1.19 INSPECTION OF HOOK-UP**

- A. All connections to the system shall be inspected by the Town of Carrizozo to insure proper installation and connection and that there is no piping arrangement or connection by which an unsafe substance may enter the water system.**
- B. The piping system on the consumer's premises shall be inspected and approved by the appropriate inspection agency before the water service will be connected.**

#### **4.1.20 WELLS**

**All wells shall be on record with the Town of Carrizozo and State Engineers Office. All well water piping must be completely segregated from the municipal water distribution system at all times.**

**Private Well - In the case of any premises having existing private wells and the owner desires to connect or is connected to the municipal water system, the options are as follows:**

- a. Customers shall agree to permanently abandon wells by plugging the wells in accordance with the Code Administration procedures prior to connection to the municipal water system; or**
- b. Customers who choose to maintain their private wells shall agree to completely segregate the private well from the premises' water system. The owner of the premises shall also sign a covenant that runs with the**

land that the private well shall not be reconnected to the premises plumbing.

#### **4.1.21 EMERGENCY SHUT-OFF**

The Foreman shall have the right at any time, without notice, to shut off water in the system for the purpose of necessary repairs, or to protect the public health and safety. In that event, the Town of Carrizozo shall not be liable for any damages occasioned by the interruption of water service.

#### **4.1.22 INJURIES TO SYSTEM**

It shall be unlawful for any person to do anything to affect the water distribution system in any way, including but not limited to removing or damaging any part of the system, making an unauthorized connection to the water distribution system, and/or contaminating the system, or removing, obstructing or damaging any fire hydrant, valve, box or cover. It shall be unlawful for any person to excavate within ten (10) feet of any part of the water distribution system without first obtaining written permission from the Foreman.

#### **4.1.23 TERMINATION FOR MISCONDUCT**

The Town of Carrizozo may cause water service to be disconnected and discontinued for any of the following activities undertaken by the consumer or property owner:

- A. Tampering with the water meter or connection so as to prevent proper registering of amount of water actually consumed.**
- B. Unauthorized connection to a water distribution line.**
- C. Failure to segregate private well piping from municipal water distribution system.**
- D. Failure to permit the Foreman or his agent reasonable access to the meter or connection.**
- E. Use of service or operation of equipment so as to interfere with the quality, safety or continuity of service furnished by the Town of Carrizozo to others.**
- F. Negligent waste of water through improper or faulty piping, equipment or otherwise.**

#### **4.1.24 PENALTY**

**Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not to exceed \$500.00 or imprisoned not to exceed ninety (90) days, or both. In addition to such penalties, the Town of Carrizozo attorney shall have the authority to apply to the District Court for the purpose of obtaining an order restraining any person from further violating any of the provisions of this ordinance.**

#### **4.1.25 ADDITIONAL REMEDY**

**Pursuant to Section 3-23-6, NMSA 1978, any charge by this ordinance shall be payable either by the owner or by the occupant of the premises to which service is furnished. In addition to any other remedy which may be authorized by this ordinance, the Town of Carrizozo shall have a lien upon the tract of land being serviced by the system for delinquent charges, unless the owner notifies the Town of Carrizozo in advance that water service charges that may be incurred by a renter will not be the responsibility of the owner, as per Section 3-23-6(C), NMSA, 1978. The lien shall be imposed and enforced in the manner provided in Sections 3-36-1 through 3-36-7, NMSA 1978 Compilation.**

#### **4.1.26 SEVERABILITY**

**If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such section, subsection, clause, phrase or portion shall be stricken, but any such action shall not affect the validity of the remaining portions of this Ordinance.**

**SECTION 4.2  
MUNICIPAL SEWER SYSTEM**

- 4.2.1 Sewer Utility Established**
- 4.2.2 Applicability**
- 4.2.3 Abbreviations**
- 4.2.4 Definitions**
- 4.2.5 Administration**
- 4.2.6 Use Of Funds**
- 4.2.7 Sewer Connection, Permit & Fees**
- 4.2.8 Service Fees**
- 4.2.9 Connections & Inspections Required**
- 4.2.10 Prohibited Discharges**
- 4.2.11 Grease, Oil And Sand Traps**
- 4.2.12 Connection To Public Sewer**
- 4.2.13 Charges**
- 4.2.14 Unlawful Habitation**
- 4.2.15 Nuisance Conditions & Abatement**
- 4.2.16 Monitoring**
- 4.2.17 Penalties**
- 4.2.18 Severability**

**4.2.1 SEWER UTILITY ESTABLISHED.**

The Town of Carrizozo sewer system is hereby declared to be for the health, safety and welfare of the residents of the Town of Carrizozo.

**4.2.2 APPLICABILITY**

**Purpose and Policy:**

This article sets forth uniform requirements for direct or indirect contributors into the wastewater collection and treatment system for the Town of Carrizozo and enables the Town to comply with all applicable State and Federal laws required by the Federal Clean

**Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403.5).**

**The objectives of this article are:**

- 1. To prevent the introduction of pollutants into the Town of Carrizozo Wastewater Treatment Plant that will interfere with its operation.**
- 2. To protect the Town of Carrizozo Wastewater Treatment Plant personnel who may be affected by the wastewater and sludge in the course of their employment, and to protect the general public.**
- 3. To promote reuse and recycling of industrial wastewater and sludge from the Town of Carrizozo Wastewater Treatment Plant.**
- 4. To enable the Town of Carrizozo to comply with its Ground Water Discharge Permit conditions, sludge use and disposal requirements and any other State and Federal laws to which the Town of Carrizozo Wastewater Treatment Plant is subject.**

#### **4.2.3 ABBREVIATIONS**

<b>BOD</b>	<b>Biochemical Oxygen Demand</b>
<b>CFR</b>	<b>Code of Federal Regulations</b>
<b>COD</b>	<b>Chemical Oxygen Demand</b>
<b>EPA</b>	<b>US Environmental Protection Agency</b>
<b>mg/l</b>	<b>milligrams per liter</b>
<b>NPDES</b>	<b>National Pollutant Discharge Elimination System</b>
<b>U.S.C.</b>	<b>United States Code</b>
<b>WWTP</b>	<b>Town of Carrizozo Wastewater Treatment Plant</b>

#### **4.2.4 DEFINITIONS**

- A. "Act" or "the Act" The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.**
- B. "Biochemical Oxygen Demand" or "BOD" The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).**
- C. "Chemical Oxygen Demand" or "COD" The chemical oxygen demand (COD) is used as a measure of the oxygen equivalent of the organic matter**

content of a sample that is susceptible to oxidation by a strong chemical oxidant.

- D. **"Environmental Protection Agency" or "EPA"** The U.S. Environmental Protection Agency or where appropriate, the Regional Water Management Division Director or other duly authorized official of said agency.
- E. **"Interference"** A discharge, which alone or in conjunction with another discharge or discharges from other sources, inhibits or disrupts the WWTP, its treatment process, operation, or its sludge processes, use or disposal and results in a violation of the Town's NPDES (National Pollution Discharge Elimination System) permit (including an increase in magnitude or duration of the violation) or prevents sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act and the Marine Protection, Research and Sanctuaries Act.
- F. **"Municipal Sewer"** shall mean any sewer system or component thereof controlled by municipal authority.
- G. **"NPDES Permit"** is an abbreviation for National Pollution Discharge Elimination System Permit.
- H. **"Pass Through"** A discharge which exits the WWTP into the waters in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the Town's NPDES permit, including an increase in the magnitude or duration of a violation.
- I. **"PH"** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions measured in grams per liter of solution and expressed in Standard Units (SU).
- J. **"Plumbing Code"** shall be the latest edition of the plumbing code of the State of New Mexico.
- K. **"Plumbing Inspector"** shall mean the New Mexico State Plumbing Inspector.
- L. **"Pollutant"** shall mean dredged soil, solid waste, incinerator residue, filter back wash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked

or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain excessive characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD toxicity, or odor.)

- M. "Pretreatment Standards" or "Standards" Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.**
- N. "Prohibited Discharge Standards" or "Prohibited Discharges" shall mean the discharge o of any substance, liquid or material in excess of permitted levels or standards or the discharge of any substance, liquid or material as prohibited in Section 4-2-11 of this Ordinance.**
- O. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.**
- P. "Sewage Treatment Plant" shall mean any combination of devices and structures used for treating sewage.**
- Q. "Sewer" shall mean a pipe or conduit for carrying sewage.**
- R. "Supervisor" shall mean the Foreman designated by the Town to supervise the operation of the WWTP and who is charged with certain duties and responsibilities by this ordinance or a duly authorized representative thereof.**
- S. "Town of Carrizozo Wastewater Treatment Plant" or "WWTP" A "treatment plant" or any component there of as defined by Section 212 of the Act (33 U.S.C. Section 1292) owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.**
- T. "User" shall mean any person, firm, business, entity or organization which contributes any type of liquid, solid or gaseous material to the WWTP.**

#### **4.2.5 ADMINISTRATION**

The control, management and supervision of the sewer system of the Town are hereby vested in the Foreman or his designated representative. The Foreman or designated representative shall have full charge and direction of such department and all employees therein, and shall make such reports as required by the Board of Trustees.



#### **4.2.6 USE OF FUNDS**

The funds received from the sewer charges and from permits to make connections or opening into the municipal sewer shall be receipted into the "utility fund" of the Town. All funds received shall be used for the operation, maintenance and extension of the sewer system and for the retirement of sewer bonds as provided by law. The Utility Fund shall be audited annually by an approved Independent Public Accountant.

#### **4.2.7 SEWER CONNECTION PERMITS FEES**

- A. Permit Required:** No person shall make any connection or opening into any part of the municipal sewer system unless permission to do so is issued by the Town on a "connect form". Such connection or opening into any part of the municipal sewer system may be performed by the public works department of the Town or by a regular plumber licensed under the laws of the State of New Mexico after first having secured permission from the Town to do so.
- B. Connection Fee:** The fee for obtaining a permit for each connection into the municipal sewer shall be the current fee for such, publicized by the Board of Trustees: which fee shall be not less than One Thousand Dollars (\$1,000.00) for each connection and which shall be paid to the town upon the application for such permit.
- C. Connection Deposit:** If a residence or business applying for municipal sewer service is not connected to municipal water, a Fifty Dollar (\$50.00) deposit shall be paid by the applicant to the Town prior to the installation of the sewer connection. The deposit shall be held by the Town and shall be returned without interest upon termination of sewer service and full payment of the consumer's bill.
- D.** The Town of Carrizozo shall charge a street cut permit fee of \$450.00 for the replacement of any unpaved streets and \$650.00 for paved streets within the town limits of the Town of Carrizozo when the installation of a sewer line requires the cutting of a street. The street cut fee is subject to price increases as the cost of materials or size of the cut may vary.

#### **4.2.8 SERVICE FEES**

The Town shall charge and collect from all users of sewer lines and the sewage system, a monthly service charge as hereby set forth, or as amended from time to time:

- A. Single-Family Dwellings: For all single-family dwellings, the charge shall be twenty-nine dollars (\$29.00) per month, plus applicable New Mexico gross receipts taxes.**
- B. Duplexes, Apartments: For all other dwellings, including duplexes, apartments and any other multiple-family dwellings, the charge shall be twenty-nine dollars (\$29.00) per month, per dwelling unit plus applicable gross receipts tax.**
- C. MHP and RV Parks: For all Mobile Home and Recreational Vehicle parks the charge shall be twenty-nine dollar minimum plus four dollars per space (\$29.00+\$4.00) per month, per space plus applicable gross receipts tax.**
- D. Convenience Stores: For all Convenience Stores the charge shall be One Hundred Nineteen dollars (\$119.00) per month, plus applicable gross receipts tax.**
- F. Restaurants and Bars: For all Restaurants and Bars the charge shall be Sixty-seven dollars (\$67.00) per month, plus applicable gross receipts tax.**
- G. General Business (Office/Retail): For all General business (office/retail) the charge shall be Thirty-five (\$35.00) per month, plus applicable gross receipts tax.**
- H. Lincoln County Courthouse: The Lincoln County Courthouse the charge shall be Fifty-Five dollars (\$55.00) per month, plus applicable gross receipts tax.**
- I. Commercial Laundries: For all commercial laundries the charge shall be Twenty-nine dollars plus Two dollars per each machine (\$29.00 minimum +\$2.00) per month, per each machine plus applicable gross receipts tax.**
- J. Motels: For all motels the charge shall be Twenty-nine dollars plus Two Dollars and fifty cents (\$29.00 minimum +\$2.50) per month, per room plus applicable gross receipts tax.**
- K. Schools: For all Carrizozo schools combined, the charge shall be One Hundred Ninety-two dollars (\$192.00) per month, plus applicable gross receipts tax.**
- L. Hospitals/Clinics: For all hospitals and clinics the charge shall be Sixty-five dollars (\$65.00) per month, plus applicable gross receipts tax.**
- M. Churches: For all churches the charge shall be Thirty-five dollars (\$35.00) per month, plus applicable gross receipts tax.**

- N. Detention Center: For the Detention Center the charge shall be Five Hundred Ten Dollars (\$510.00) per month, plus applicable gross receipts tax.**
- O. Brewery: For a Brewery the charge shall be One Hundred Sixty-eight Dollars (\$168.00) per month, plus applicable gross receipts tax.**
- P. Industrial/Manufacturing Users: For Any type of industrial or manufacturing use of the WWTP, the Board of Trustees shall evaluate the type of use and the amount and types of proposed contributions of waste to the WWTP and establish a fair and reasonable fee for the use of the WWTP, which in no case will be less than One Hundred Sixty-eight Dollars (\$168.00) per month, plus applicable gross receipts tax.**

#### **4.2.9 CONNECTIONS & INSPECTIONS REQUIRED**

**All plumbing installations made on private property and subsequent connections to the municipal sewer must be inspected by a licensed plumber or qualified employee of the Town and must meet the requirements of the Plumbing Code of the State of New Mexico.**

#### **4.2.10 PROHIBITED DISCHARGES**

- A. General Prohibitions: No user shall introduce or cause to be introduced into the WWTP any pollutant, matter, material, solid, liquid or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the WWTP whether or not they are subject to categorical pretreatment standards or any other National, State or Local pretreatment standards or requirements.**
- B. Specific Prohibitions: No User shall introduce or cause to be introduced into the WWTP the following pollutants, substances or wastewater:**
  - 1. Pollutants which create fire or explosion hazard in the WWTP, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees F (60 degrees C) using test methods specified in 40 CFR 261.21.**
  - 2. Pollutants which will cause corrosive structural damage to the WWTP or equipment, but in no case discharges with a pH lower than 5.0.**
  - 3. Solid or viscous matter, material, or pollutants in amounts which will cause obstruction to the flow in the WWTP resulting in interference.**

4. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the WWTP.
5. Any discharge with a BOD in excess of five hundred (500) milligram per liter.
6. Heat in amounts which will inhibit biological activity in the WWTP resulting in interference, but in no case heat in such quantities that the temperature at the entrance to the WWTP exceeds 104 degrees F (40degrees C).
7. Petroleum oil, cooking oil, non-biodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.
8. Pollutants which result in the presence of toxic gases, vapors or fumes within the WWTP in quantities that may cause worker health and/or safety problems or which create the possibility of explosion or fire.
9. Any trucked or hauled septic, except when accompanied by a valid permit issued by the Town and at discharge points designated by the WWTP Supervisor.
10. Solid or viscous substances in types, quantities or of such size capable of causing obstruction to the flow in the WWTP or other interference with the proper operation of the WWTP, including, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
11. **Maximum Concentrations of Heavy Metals**
  - a. Any liquid or wastes from nonresidential point source discharges to the municipal sewer system shall not exceed the following concentrations for the listed heavy metals, if attainable by the best practicable control technology available any source exceeding the following concentrations:

<u>Metals</u>	<u>mg/l</u>
Arsenic	0.05
Barium	5.0
Boron	1.0
Cadmium	0.02
Chromium	5.0

Copper	10
Lead	0.1
Manganese	1.0
Mercury	0.005
Nickel	1.0
Selenium	0.02
Silver	0.02
Zinc	5.0

- b. **The dilution of the water or wastes from any (nonresidential point) source which would reduce the concentration of any of such metals in the wastes or waters discharged does not constitute a manner of disposal which is acceptable. Any attempts to dilute wastes or waters containing heavy metals in excess of the foregoing concentrations prior to release into the WWTP shall constitute a violation of this Ordinance.**
- c. **If the Environmental Protection Agency develops heavy metal limitations for release into the WWTP, that are more stringent than the foregoing, those EPA limitations shall replace the foregoing.**

**12. Materials which exert or cause:**

- a. **Unusual concentrations of inert suspended solids, such as, but not limited to fuller's earth, lime slurries and lime residues or of dissolved solids, such as, but not limited to sodium chloride and sodium sulfate.**
- b. **Unusual chemical oxygen demand or biochemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.**
- c. **Excessive discoloration, such as, but not limited to dye wastes and vegetable tanning solutions.**
- d. **Slugs or shocks constituting an unusual volume off low or concentration of wastes which will disturb the normal functioning of the WWTP.**

**13. Waters or wastes containing substances which are not amenable to treatment or reduction by the WWTP or are amenable to treatment only to such degree that the effluent cannot meet the requirements contained in this Ordinance or of agencies having jurisdiction over discharge of effluent from the WWTP.**

- 14. Any water or waste discharge that, collectively with other discharges contains concentrations of metals which cause the treated effluent discharge from the Town's WWTP to exceed the values listed in subsection 11 of this section.**
  - a. If the state environmental improvement agency revises the effluent limitation for chromium, the limitation for chromium established by this subsection shall correspond to that revised state environmental improvement agency effluent limitation; except that in no case shall the concentration of chromium in the effluent exceed 0.05 milligrams per liter.**
  - b. If the federal Environmental Protection Agency revises the heavy metal limitations, the limitations established by this subsection shall correspond to that revised Environmental Protection Agency heavy metal limitation.**
- C. Acceptance of restricted wastes. If any waters or wastes are discharged or are proposed to be discharged into the WWTP, and such waters or wastes contain any of the substances or possess any of the characteristics in excess of those enumerated in 11 .a. of this section, and the discharge may have a deleterious effect upon the WWTP or receiving waters or otherwise create a hazard to life or constitute a public nuisance, the Maintenance Supervisor may:**
  - a. Reject the waters;**
  - b. Require pretreatment to an acceptable condition prior to discharge into the WWTP; or**
  - c. Require control over the quantities and rates of discharge into the municipal sewerage system so that discharges into the WWTP do not exceed levels contained in Section 11.a.**
- D. Pre-treatment - Any establishment found to produce a discharge that would fall under the specific prohibitions, may not discharge into the WWTP. Any such establishment shall be required to pre-treat the waste before discharging into the WWTP and/or shall also be subject to additional charges due to the added burden placed on the system. Any such establishment shall be subject to periodic sampling to assure of compliance.**

#### **4.2.11 GREASE, OIL AND SAND TRAPS**

Grease, oil and sand traps shall be provided and properly maintained by the owner or occupant when, in the opinion of the member of the Public Works Department who is properly certified, they are necessary for the proper handling of liquid wastes, sand or other harmful ingredients. These are subject to the following additional regulations:

- 1. Such traps shall not be required for private living quarters or dwelling, however, no such quarters or dwelling shall be permitted to discharge any grease or oil into the WWTP in excess of normal household quantities.**
- 2. All traps installed shall be sized as required by the most recent version of the Uniform Plumbing Code.**
- 3. All traps shall be located so as to be readily and easily accessible for cleaning and inspection.**
- 4. All traps shall be cleaned sufficiently so as to prevent any discharge of grease, oil or sand into the Town sewer system, and the owner of the premises shall keep records of the cleaning of all traps on the premises. These records shall be available for inspection by an authorized representative of the Public Works Department during normal business hours. All traps shall be subject to inspection by the Foreman, or his delegate, during normal business hours.**

#### **4.2.12 CONNECTION TO MUNICIPAL SEWER**

- A. Connection Required: All occupied property in the Town, used for human habitation or occupancy, which is capable of being serviced by the municipal sewer system, shall be connected with the municipal sewer system. No person shall maintain, use or operate a privy, cesspool or septic tank located on property which can be served by the municipal sewer system; provided, however, that no person shall be required to cross the private property of any other person to make such sewer connection.**
- B. Municipal Sewer Unavailable; Septic Tanks: Where no municipal sewer line is accessible, septic tanks and seepage facilities, as approved by the New Mexico Environment Department, shall be installed.**

#### **4.2.13 CHARGES**

- A. Imposition and Collection of Charges: For the purpose of protecting the health, safety and welfare of the people of the Town, and for maintaining,**

enlarging, constructing and repairing the WWTP and for paying the interest and principal on bonds issued for the construction of the WWTP, in addition to other remedies provided herein for the enforcement of this chapter, the Town shall give written notice to owners or occupants who are not connected to the WWTP of their obligation to connect and inform them that they have 45 days to connect to the WWTP. In the event any owner or occupant shall fail or refuse to connect to the WWTP after having received notice to do so as provided for herein, the Town shall be empowered to connect said premises to the WWTP at the expense of the Owner of the premises.

The costs of making said connection shall constitute a lien on the premises which shall be subject to foreclosure as provided for by law. After connection to the WWTP, the owner of the premises shall be billed for the applicable monthly sewer service charge as scheduled in section 4.2.8 of this chapter; all as provided for in New Mexico Statutes Annotated Section 3-26-2.

- B. **Mandatory Connection:** It shall be mandatory for all property developed for human occupation within the Town of Carrizozo to be connected to the sewer where sewer is available.
- C. **The Foreman or his certified delegate may immediately suspend a user's license to discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Foreman or his certified delegate may also suspend a user's license to discharge, after notice and opportunity to respond, when a user's discharge threatens to interfere with operation of the WWTP, or presents or may present, an endangerment to the environment.**

Any user notified of a suspension of its license to discharge shall immediately stop or eliminate its contribution into the WWTP. In the event of the user's failure to immediately comply voluntarily with the suspension order, the Foreman or his certified delegate may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWTP, its receiving stream or endangerment to any individuals.

The Foreman or his certified delegate may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Foreman or his certified delegate that the discharge which threatened endangerment to the health and welfare of persons or damage to the WWTP no longer exists.

#### **4.2.14 UNLAWFUL HABITATION**

- A. **Use Prohibited:** Regardless of the date of construction, it shall be unlawful for any persons to use, as a place of human habitation or occupation, any



structure within the Town not equipped with proper plumbing and sewer or septic tank connections.

- B. Owners Allowing Use:** It shall be unlawful for the owners of any building used as a place of human habitation or occupation not having proper plumbing, and sewer or septic tank connection, to allow the same to be used as a living quarters or otherwise, or rent the same for purposes as such.

#### **4.2.15 NUISANCE CONDITIONS & ABATEMENT**

All places of human habitation or occupation within the Town not equipped with proper plumbing and connected to sewer lines or a septic tank, are hereby declared to be nuisances which endanger the public health, safety and welfare and are prohibited. All remedies for the abatement of such nuisances and the penalties as provided for herein or in any other municipal ordinance may be employed by the Town in enforcing the terms of this Ordinance.

#### **4.2.16 MONITORING**

- A. Inspections:** The Foreman or his certified delegate shall have the right to enter the premises of any commercial or industrial user upon reasonable notice to determine whether the user is complying with all the requirements of this ordinance. Commercial or industrial users shall allow the Foreman or his certified delegate ready access to all parts of the commercial or industrial premises for the purposes of inspection, sampling, record examination and copying, if applicable, and the performance of any related additional duties.
- a.** Where a commercial or industrial user has security measures in force which require proper identification and clearance before entry into the premises, the user shall make all necessary arrangements to ensure that the Foreman or his certified delegate will be permitted to enter the premises without delay for the purposes enumerated herein.
  - b.** The Foreman or his certified delegate shall have the right to set up on the commercial or industrial user's property such devices as are necessary to conduct sampling and/or metering of the user's operation to ensure compliance with this Ordinance.
  - c.** Unreasonable delays in allowing the Foreman or his certified delegate access to the commercial or industrial user's premises shall be a violation of this ordinance.
- B. Search Warrants:** If the Foreman or his certified delegate has been refused access to any commercial or industrial building, structure or property or any part thereof by the owner or occupant thereof, and, pursuant to NMRA 6-208 is able to demonstrate probable cause to believe that the commercial or

industrial building, structure or property may be in violation of this ordinance, or that there is a need to inspect to verify compliance with this ordinance, or protect the overall public health, safety and welfare of the community, then the Foreman or his certified delegate, in conjunction with the Town of Carrizozo Police Department may seek issuance of a search warrant from the Magistrate Court of Lincoln County in Carrizozo for purposes of enforcing the terms of this Ordinance.

#### **4.2.17 PENALTIES**

Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor, and, upon conviction thereof shall be fined a sum not to exceed five hundred dollars (\$500.00), or be imprisoned for a period of ninety (90) days for each violation, or both. The Town Attorney is specifically authorized to apply to the Twelfth Judicial District Court for the purpose of obtaining injunctive relief against any owner or occupant, to stop any violation of this Ordinance or to prevent its violation.

#### **4.2.18 SEVERABILITY**

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid, unenforceable or unconstitutional by any court of competent jurisdiction, such section, subsection, clause, phrase or portion shall be stricken, but any such action shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 4.3  
COMMUNITY CENTER**

**4.3.1 [ RESERVED ]**

**SECTION 4.4  
MUNICIPAL CEMETERY**

**4.4.1 [ RESERVED ]**

**4.4.2 EXECUTION OF DEEDS TO BURIAL LOT**

**The Municipality in dispensing 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.**

**4.4.3 SALE OF CEMETERY PLOTS/FEES**

**There shall be a charge and fee of two hundred fifty (\$250.00) dollars for purchase of a single burial plot, and there shall be a charge and fee of two hundred fifty (\$250.00) for the opening and closing of the grave for a casket, and a charge and fee of one hundred seventy-five (\$175.00) for an urn.**

**4.4.4 CEMETERIES- RESTRICTED HOURS**

**it shall be unlawful for any person, except for official business or employment, to go onto the premises of the Carrizozo Cemeteries during hours of darkness. Cemetery hours are 7a.m. to 7 p.m. daily. Any person violating this section shall be liable to fine upon conviction of up to three hundred (\$300.00) dollars.**

**SECTION 4.5  
MUNICIPAL LIBRARY**

**4.5.1 [ RESERVED ]**

**SECTION 4.6  
MUNICIPAL AIRPORT**

- 4.6.1 Short Title**
- 4.6.2 Definitions**
- 4.6.3 Zones**
- 4.6.4 Height Limitations**
- 4.6.5 Nonconforming Uses**
- 4.6.6 Permits**
- 4.6.7 Use of Funds**
- 4.6.8 Enforcement**
- 4.6.9 Board of Appeals**
- 4.6.10 Appeals**
- 4.6.11 Judicial Review**
- 4.6.12 Penalties**

**4.6.1 SHORT TITLE:**

**This Section shall be known and may be cited as "Carrizozo Municipal Airport Zoning Section".**

**4.6.2 DEFINITIONS:**

**As used in this Section, unless the context otherwise requires:**

**AIRPORT:** Shall mean the Carrizozo Municipal Airport, Carrizozo, New Mexico.

**AIRPORT ELEVATION:** Shall mean the established elevation of the highest point on the usable landing area, which is 5370 feet, MSL.

**AIRPORT HAZARD:** Shall mean any structure, tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

**AIRPORT REFERENCE POINT:** Shall mean the point established as the approximate geographic center of the airport landing area and is established at a location described as follows: Longitude 105° 56' 15", latitude 33° 38' 56".

**BOARD OF APPEALS:** Shall mean a board consisting of five (5) members appointed by the Airport Zoning Board as provided in Chapter 44, Article 2, Paragraph b, of New Mexico State Statutes.

**HEIGHT:** For the purpose of determining the height limits in all zones set forth in this Section and shown on the zoning map, the datum shall be mean sea level unless otherwise specified.

**LANDING AREA:** Shall mean the area of the Airport used for the landing, taking off or taxiing of aircraft.

**NONCONFORMING USE:** Shall mean any structure, tree, or USE OF land which is lawfully in existence at the time the regulation is prescribed in the ordinance or an amendment thereto becomes effective and does not then meet the requirements of said regulation.

**PERSON:** Shall mean an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

**RUNWAY:** Shall mean the landing strip or PART of the Airport used for takeoff and landing of aircraft.

**STRUCTURE:** Shall mean an object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

**TREE:** Shall mean any object of natural growth.

#### **4.6.3 ZONES:**

In order to carry out the provisions of this Section, there are hereby created and established certain zones which include all of the land lying within the Non-instrument Approach Zones, Transition Zones, Horizontal Zone and Conical Zone. Such areas and Zones are shown on the Carrizozo Municipal Airport Zoning Map consisting of one sheet, prepared by Mann Engineering Co., and dated June 26, 1972, which is hereby made a part hereof. The various zones are hereby established and defined as follows:

**NON-INSTRUMENT APPROACH ZONES:** A non-instrument approach zone is established at each end of all non-instrument runways on the Carrizozo Municipal Airport for non-instrument landings and take offs. The non-instrument approach zone shall have a width of two hundred fifty feet (250') at a distance of two hundred feet (200') beyond each end of the runway, widening thereafter uniformly to a width of one thousand two hundred fifty feet (1,250') at a distance of five thousand feet (5,000') beyond each end of the runway or to its

intersection with the Horizontal Zone, its centerline being the continuation of the centerline of the runway.

**TRANSITION ZONES:** Transition zones are hereby established adjacent to each non-instrument runway and approach zone as indicated on the zoning map. Transition zones symmetrically located on either side of runways, have variable width as shown on the zoning map. Transition zones extend outward from a line one hundred twenty five feet (125') on either side of the centerline of the non-instrument runway, for the length of such runway one hundred feet (100') on each end, and are parallel, and level with such runway centerlines. The transition zones along such runways slope upward and outward one foot (1') vertically for each seven feet (7') horizontally to the point where they intersect the surface of the horizontal zones. Further transition zones are established adjacent to non-instrument approach zones for the entire length of the approach zones. These transition zones have variable widths, as shown on the zoning map. Such transition zones flare symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one foot (1') vertically for each seven feet (7') horizontally to the points where they intersect the surface of the horizontal zone.

**HORIZONTAL ZONES:** A horizontal zone is hereby established as the area within a zone established by arcs having a radius of five thousand feet (5,000') the center of which is two hundred feet (200') beyond the end of each runway and connecting the adjacent arcs by lines tangent to those arcs. The horizontal zone does not include the non-instrument approach zones and the transition zones.

**CONICAL ZONES:** A conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward and upward therefrom at a slope of 20:1 a distance of four thousand feet (4,000'). The conical zone does not include the non-instrument approach zones and transition zones.

#### **4.6.4 HEIGHT LIMITATIONS:**

Except as otherwise provided in this Section, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this Section to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

**NON-INSTRUMENT APPROACH ZONES:** One foot (1) in height for each twenty feet (20') in horizontal distance beginning at a point two hundred feet (200') from and at the elevation of the end of the runway and extending to a point five thousand feet (5,000') from the end of the runway;



**TRANSITION ZONES:** One foot (1') in height for each seven feet (7') in horizontal distance beginning at any point one hundred twenty five feet (125') at each side of centerline normal to and at the elevation of the centerline of runways extending on thousand one hundred seventy five feet (1,175') beyond each end thereof, extending to a height of one hundred fifty feet (150') above the airport elevation which is five thousand five hundred twenty feet (5,520') above the mean sea level. In addition to the foregoing, there are established height' limits of one foot (1') vertical height for each seven feet (7') horizontal distance measured from the edges of all approach zones for entire length of the approach zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces:

**HORIZONTAL ZONE:** One hundred fifty feet (150') above the airport elevation or a height of five thousand five hundred twenty feet (5,520') above mean sea level; and

**CONICAL ZONE:** One foot (1') in height for each twenty feet (20') of horizontal distance beginning at the periphery of the horizontal zone, extending to a height of three hundred fifty feet (350') above the airport elevation, or 5720 MSL . Where an area is covered by more than one height limitation the more restrictive limitations shall prevail.

Nothing in this Section shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to thirty feet (30') above the surface of the land.

#### **4.6.5 NONCONFORMING USES:**

- A. Regulations Not Retroactive.** The regulations prescribed by this Section shall not be construed to require the removal, lowering, or other changes or alteration of any structure of tree not conforming to the regulation as of the effective date of this Section, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Section, and is diligently prosecuted.
- B. Marking and Lighting.** Notwithstanding the preceding provisions of this Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Administrative Agency to indicate to the operators of aircraft in the vicinity of the airport, the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the Town of Carrizozo.

#### **4.6.6 PERMITS:**

**A. Future Uses:** Except as specifically provided in Subparagraphs 1,2 and 3 hereunder, no material change shall be made in the use of the land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application of a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

- a.** In the area lying within the limits of the Horizontal zone and the Conical zone but not within the limits of an approach zone or transition zone, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the ground, except when because of terrain, land contour or topographic features such tree or structure would extend above the height limits prescribed for such zone.
- b.** In the areas lying within the limits of the approach zones but at a horizontal distance of not less than two thousand feet ' (2000') from each end of the runways, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the established airport elevation, except when such tree or structure would extend above the height limit prescribed for such instrument or non-instrument zone.
- c.** In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy five feet (75') of vertical height above the ground except when such tree of structure, because of terrain, land contour or topographic features would extend above the height limit prescribed by this Section except as set forth in Section 4.6.4.

**B. Existing Uses.** No permit shall be granted that would allow the Establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Section or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

**C. Nonconforming Uses Abandoned or Destroyed.** Whenever the Administrative Agency determines that a nonconforming structure or tree has been abandoned or more than eighty per cent (80%) torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to

exceed the applicable height limit or otherwise deviate from the zoning regulations.

**D. Variances.** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in the Section, may apply to the Board of Adjustment for a variance from such regulation. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Section.

**E. Hazard Marking and Lighting.** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Section, and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or trees in question to permit the Town, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to fliers the presence of an airport hazard.

#### **4.6.7 USE OF FUNDS:**

The funds received from use of the airport, including sales of fuel, hangar leases, etc., and from permits shall be receipted into the "airport fund" of the Town. All funds received shall be used for the operation, maintenance and improvement of the airport and for the retirement of any airport-related bonds as provided by law. The Airport Fund shall be audited annually by an approved Independent Public Accountant.

#### **4.6.8 ENFORCEMENT:**

The Carrizozo Board of Trustees is hereby designated the Administrative Agency or Administrative Officer. It shall be the duty of the Administrative Agency or Officer to administer and enforce the regulations prescribed herein.

Applications for permits and variances shall be made to the Administrative Agency upon a form furnished by him. Applications required by this Section to be submitted to the Administrative Agency shall be promptly considered and granted or denied by him. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Administrative Agency.

#### **4.6.9 BOARD OF APPEALS:**

**A.** There is hereby created a Board of Appeals to have and exercise the following powers:

- a. To hear and decide appeals from any order, requirements, decision, or determination made by the Administrative Agency or Officer in enforcement of this Section;
  - b. To hear and decide special exceptions to the terms of this Section upon which such Board of Appeals under-such regulations may be required to pass;
  - c. To hear and decide specific variances.
- B. The Board of Appeals shall consist of five (5) members appointed by the Carrizozo Municipal Airport Zoning Board and each shall serve for a term of three (3) years and until his successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one (1) year, two for a term of two (2) years and two for a term of three (3) years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.**
- C. The Board shall adopt rules for its governance and procedure in harmony with the provisions of this Section. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Administrative Agency and shall be a public record.**
- D. The Board shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusion from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Section.**
- E. The concurring vote of a majority of the members of the Board shall be sufficient to reverse any order, requirement, decision, or determination of the Administrative Agency or decide in favor of the applicant on any matter upon which it is required to pass under this Section, or to effect any variation in this Section.**

**4.6.10 APPEALS:**

- A. Any person aggrieved, or any taxpayer affected, by any decision of the Administrative Agency or Officer made in his administration of this Section, if of the opinion that a decision of the Administrative Agency is an improper application of these regulations, may appeal to the Board of Appeals.**

- B. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board, by filing with the Administrative Agency a notice of appeal specifying the grounds thereof. The Administrative Agency shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.**
- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrative Agency certifies to the Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board on notice to the Agency from which the appeal is taken and on due cause shown.**
- D. The Board shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.**
- E. The Board may, in conformity with the provisions of this Section, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.**

#### **4.6.11 JUDICIAL REVIEW:**

**Any person aggrieved, or any taxpayer affected, by any decision of the Board of Appeals, may appeal to the District Court as provided in State Law.**

#### **4.6.12 PENALTIES:**

**Each violation of this Section or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment for not more than ninety (90) days or both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense.**