

CHAPTER 8

PUBLIC HEALTH, SAFETY & WELFARE

SECTION

- 8.1 Public Order & Safety
- 8.2 Fire Prevention Code
- 8.3 Storage of Inflammable Liquids
- 8.4 Fireworks
- 8.5 Flood Control
- 8.6 Drinking Water
- 8.7 Water Contingency Plan
- 8.8 Refuse in Buildings / Stagnant Water
- 8.9 Solid Waste
- 8.10 Addressing

SECTION 8.1 PUBLIC ORDER & SAFETY

8.1.1 EMERGENCY PLANNING

The Clerk of the Town shall maintain the current copy of the Town of Carrizozo Emergency Operations Plan, which shall contain the names of the persons and the established procedures for responding to natural disasters and civil emergencies confronting the health, safety and welfare of the Town.

8.1.2 HAZARDOUS STRUCTURES AND CONDITIONS

The Town of Carrizozo has the authority, pursuant to NMSA § 3-18-5, to remove structures within the Town limits which are deemed hazardous to the public health, safety and welfare, as prescribed in the Nuisance Ordinance, Section 11-2.

8.1.3 [Reserved]

**SECTION 8.2
FIRE PREVENTION CODE**

8.2.1 FIRE PREVENTION CODE

ADOPTION OF THE FIRE PREVENTION CODE: For the purpose of regulating and governing conditions hazardous to life and property from fire, the Fire Prevention Code, NFPA Fire Prevention Code-1, 2003 Edition, as Recommended by the International Code Council, is hereby adopted. One (1) copy of said Fire Prevention Code shall be on file at all times in the office of the Clerk, and shall be made a part of this Code as if set out in length herein.

**SECTION 8.3
STORAGE OF INFLAMMABLE LIQUIDS**

8.3.1 RESTRICTIONS AS TO STORAGE:

It shall be unlawful for any person to store any gasoline, petroleum, naphtha or fuel oil of any description whatsoever above the surface of the ground within the Municipality in a quantity of more than five hundred (500) gallons except on the right-of-way of the Southern Pacific Railway Company. The storing of such products in a greater amount shall constitute a fire hazard and a nuisance.

8.3.2 EXEMPTIONS TO FRANCHISED COMPANIES:

Storage of inflammable liquids in the Municipality by any company operating under a franchise granted by the Municipality shall be exempt from the above restrictions. Said companies shall be governed by their franchises.

SECTION 8.4 FIREWORKS

- 8.4.1 Fireworks Defined**
- 8.4.2 Discharge of Fireworks Defined**
- 8.4.3 Discharge of Fireworks Prohibited**
- 8.4.4 Exceptions**
- 8.4.5 Penalty**

8.4.1 FIREWORKS DEFINED:

Fireworks consist of firecrackers, roman candles, sky rockets, torpedoes, bombs, blank cartridge or any other type or form of explosive commonly known as "fireworks", unless such item has been declared by the State Fire Marshal as not dangerous to persons or property.

The term "fireworks" shall not include toy guns, toy canes, toy pistols or other devices in which paper caps containing twenty five hundredths (25/100) grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-hundredths (20/100) grains of explosive mixture, the sale and use of which shall be permitted at all times.

8.4.2 DISCHARGE OF FIREWORKS DEFINED:

Discharge of fireworks consists of lighting, attempting to light, discharging or permitting the discharge of such fireworks as are defined in subsection 8.4.1.

8.4.3 DISCHARGE OF FIREWORKS PROHIBITED:

It shall be unlawful for any person to discharge any fireworks as defined in subsection 8.4.1, if such person is not granted an exemption as defined in subsection 8.4.4, within the territorial limits of the Town.

8.4.4 EXCEPTIONS:

The Chief of the Fire Department, may, upon due application, issue a permit to a properly qualified person or entity for giving a pyrotechnic display in a pre-designated area.

8.4.5 PENALTY:

Any person found guilty of violating any provision of this ordinance shall be punished by a fine of not more than \$500.00 or by imprisonment in jail not exceeding 90 days or by both such fine and imprisonment.

**SECTION 8.5
FLOOD DAMAGE PREVENTION**

- 8.5.1 Statutory Authority**
- 8.5.2 Findings of Fact**
- 8.5.3 Statement of Purpose**
- 8.5.4 Methods of Reducing Flood Losses**
- 8.5.5 Definitions**
- 8.5.6 Interpretation**
- 8.5.7 Lands to which This Ordinance Applies**
- 8.5.8 Basis for Establishing the Areas of Special Flood Hazard**
- 8.5.9 General Standards for Flood Hazard Reduction**
- 8.5.10 Specific Standards**
- 8.5.11 Drainage Channels and Areas Subject to Flooding**
- 8.5.12 Establishment of Development Permit**
- 8.5.13 Permit Procedures**
- 8.5.14 Variance Procedures**
- 8.5.15 Standards for Subdivision Proposals**
- 8.5.16 Compliance**
- 8.5.17 Abrogation and Greater Restrictions**
- 8.5.18 Warning & Disclaimer of Liability**
- 8.5.19 Designation of the Floodplain Administrator**
- 8.5.20 Duties and Responsibilities of the Floodplain Administrator**
- 8.5.21 Severability**
- 8.5.22 Penalties for Non-compliance**

8.5.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Mexico has in Statutes Amended (NMSA) 1978 Section 3.18.7 delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the

Governing Body of the Town of Carrizozo (Community No. 350110), New Mexico does ordain as follows:

8.5.2 FINDINGS OF FACT

- 1) The flood hazard areas of the Town of Carrizozo are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.**
- 2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.**

8.5.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1) Protect human life and health;**
- 2) Minimize expenditure of public money of costly flood control projects;**
- 3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;**
- 4) Minimize prolonged business interruptions;**
- 5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;**
- 6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and**
- 7) Ensure that potential buyers are constructively notified that property is in a flood area.**

8.5.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

- 1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- 2) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- 3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- 4) Control filling, grading, dredging and other development, which may increase flood damage;
- 5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

8.5.5 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

AREA OF FUTURE CONDITIONS FLOOD HAZARD - means the land area that would be inundated by the 1.percent-annual chance (100 year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or

greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1.30, AE, A99, AR, AR/A1.30, AR/AE, AR/AO, AR/AH, AR/A, VO, VI-30, VE or V.

BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1.A30, AR, V1.V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

BASEMENT - means any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

BUILDING – See Structure

COMMUNITY – means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaskan native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING - means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EMERGENCY FLOOD INSURANCEZ PROGRAM OR EMERGENCY PROGRAM means the program as implemented on an emergency basis in accordance with Section 1336 of the National Flood Insurance Program Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

EROSION – means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community, issued by the Administrator, where the boundaries of the flood,

mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A copy of the community's most recent FIRM shall be kept by the Clerk, and shall be made accessible to the public.

FLOOD INSURANCE STUDY (FIS) - see Flood Elevation Study

FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY - see Regulatory Floodway

FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair

facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

ONE HUNDRED YEAR FLOOD – See base flood.

PRINCIPALLY ABOVE GROUND – means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

RIVERINE - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA - see Area of Special Flood Hazard

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97.348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of

the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE - means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

8.5.6 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

8.5.7 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the Town of Carrizozo.

8.5.8 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM), Community Number 350110, dated November 16, 2011.

8.5.9 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- 1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- 4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- 5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- 7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8.5.10 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) 8.5.7, (ii) 8.5.15 (3), or (iii) 8.5.20 (8), the following provisions are required:

- 1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in 8.5.13 (1) a., is satisfied.
- 2) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the Floodplain Administrator.
- 3) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by

a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than 1 foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4) Manufactured Homes –

- a. Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1.30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1.30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - i. the lowest floor of the manufactured home is at or above the base flood elevation, or
 - ii. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely

anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

8.5.11 DRAINAGE CHANNELS AND AREAS SUBJECT TO FLOODING

The provisions of this subsection apply to all land within 75 feet of the centerline of the water courses and the area subject to flooding as shown on the Zone Map and are intended to protect persons and property from periodic flooding and to preserve the location, character and extent of natural drainage courses.

- A. No building may be constructed, altered, or occupied; no materials or equipment may be stored, and no mining, excavation, or land filling may be performed except upon issuances of a certificate of approval by the Zoning Administrator.**

- B. Procedures –**
 - a. An application for a certificate of approval must include a contour map referenced to the appropriate datum plane approved by the Zoning Administrator, prepared by a registered civil engineer, which indicates the extent and elevations of all proposed construction, alterations, mining, excavation, and land filling.**

 - b. An application must contain other studies as may be required to determine the effect of flooding on the proposed structure or activity and the effect of the proposed structure or activity on the arroyo or flood drainage channel.**

 - c. Prior to the issuance of a certificate of approval, the Zoning Administrator must examine the plans and land of the applicant. The Zoning Administrator must find that the building, structure, or activity will not constitute a hazard to persons or property, will not divert water from or obstruct the natural flow of water in the arroyo or flood drainage channel, will not cause flooding of land outside the natural drainage course, and will not reduce or endanger the water-carrying capacity of the arroyo or flood drainage channel.**

 - d. The applicant may be required to erect dikes, barriers, riprap, or other structures, or improvements necessary to guarantee protection to the public as a condition to the issuance of certificate of approval.**

- C. The issuance of a certificate of approval will not constitute a representation, guarantee or warranty any kind or nature by the governing body or by any political subdivision, or by an officer or employee of any of them, of the practicability or safety of any structure or activity, and will create no liability**

upon or cause of action against any public body, officer, or employee for damage that may thereby result.

- D. In the event of a conflict between the location of a major arroyo as shown on the Zone Map and actual location of the arroyo on the ground, the centerline of the actual location of the arroyo control for the purposes of these regulations.

8.5.12 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

8.5.13 PERMIT PROCEDURES

- 1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - c. A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of subsection 8.5.10 of this ordinance.
 - d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - e. Maintain a record of all such information in accordance with subsection 8.5.20 of this ordinance.
- 2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
 - a. The danger to life and property due to flooding or erosion damage;

- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;**
- c. The danger that materials may be swept onto other lands to the injury of others;**
- d. The compatibility of the proposed use with existing and anticipated development;**
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;**
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;**
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;**
- h. The necessity to the facility of a waterfront location, where applicable;**
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.**

8.5.14 VARIANCE PROCEDURES

- 1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.**
- 2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.**
- 3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.**
- 4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.**
- 5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the**

remainder of this ordinance.

- 6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 8.5.13 (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- 7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (8.5.13).
- 8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 10) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in 8.5.14 (1)-(9) are met, and (ii) the structure or other development is protected

by methods that minimize flood damages during the base flood and create no additional threats to public safety.

8.5.15 STANDARDS FOR SUBDIVISION PROPOSALS

- 1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Subsections 8.5.2, 8.5.3 and 8.5.4 of this ordinance.**
- 2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of subsections 8.5.12 and 8.5.13; and the provisions of subsections 8.5.9 and 8.5.10 of this ordinance.**
- 3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to subsection 8.5.8 or subsection 8.5.20 (8) of this ordinance.**
- 4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.**
- 5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.**

8.5.16 COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

8.5.17 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

8.5.18 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

8.5.19 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Lincoln County Floodplain Administrator is hereby appointed the Floodplain Administrator for the Town of Carrizozo, to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

8.5.20 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- 1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 - 2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
 - 3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
 - 4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - 5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- CID:350110, with FHBM Date: November 16, 2011.

- 6) **Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the New Mexico Department of Homeland Security and Emergency Management (DHSEM), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.**
- 7) **Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.**
- 8) **When base flood elevation data has not been provided in accordance with subsection 8.5.8 of this ordinance, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of subsections 8.5.9 and 8.5.10 of this Ordinance.**

8.5.21 SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

8.5.22 PENALTIES FOR NON COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Carrizozo from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION 8.6
DRINKING WATER**

8.6.1 MUNICIPAL WELLS

The Town of Carrizozo is served by the following municipal wells, registered with the Office of the State Engineer:

T-00247

T-4617

T-4618

T-4619

T-5113

Historically, ground water drawn from Carrizozo's municipal wells has contained high levels of sulphates in samples, but as a secondary contaminant, the EPA has determined that it is safe to consume and is generally not considered a health hazard.

The Foreman of the Town of Carrizozo, or a designated water specialist acting on behalf of the Town, shall be responsible for the maintenance and testing of municipal drinking water.

**SECTION 8.7
WATER CONTINGENCY PLAN**

- 8.7.1 Water Conservation**
- 8.7.2 Applicability**
- 8.7.3 General**
- 8.7.4 Phase 1: Normal Conditions**
- 8.7.5 Phase 2: Drought Conditions**
- 8.7.6 Phase 3: Severe Drought Conditions**
- 8.7.7 Penalty**
- 8.7.8 Enforcement Officers**

8.7.1 WATER CONSERVATION:

The Town of Carrizozo will continue to evaluate its conservation plan and adjust as necessary as upgrades are done to the water system. New wells, increased water rights, increased storage capacity as well as other improvements will be involved in this constant evaluation. In case of extreme drought conditions or a system failure, the Governing Body and Town Clerk may impose any restriction on the water to protect the Public's Health, Safety and Welfare or to preserve the public water supply.

8.7.2 APPLICABILITY:

The following water users shall be subject to this section.

- A. All customers of metered water sold and supplied by the Town: and:**
- B. All users of domestic wells within the jurisdiction of the town shall be exempt from this section to the extent of such well use provided as authorized by NMSA 1978, Section 3-53-1 and 3-53-2. Said users shall identify the property on which the well sits by signs placed prominently on said property. Failure to display said signs shall subject the user to the provisions of the section.**
- C. Homes and businesses will be allowed to hand-water with hoses, or other containers, buckets, etc., potted plants, tree wells and flower beds. Hand watering with a hose, container or bucket consists of an individual being physically present and manually in control of a watering device. Hand watering is allowed on any day where watering is prohibited between 10:00 AM and 3:00 PM. This will apply to all three water phases.**

8.7.3 GENERAL

The Governing Body and Town Clerk will determine what phase of water conservation plan the town is in based on surface water storage, well production, season, drought conditions, equipment failure or any other condition that may affect the delivery of water.

Public notice of a change in water conservation phase will be given.

8.7.4 PHASE 1: NORMAL CONDITION

A. Environmental Conditions: Normal weather patterns exist with average snow pack in the winter and expected average flows to Bonito Lake and Northern Tularosa Basin.

B. Steps to be taken.

a. Outdoor watering will only be allowed as follows:

i. Customers will water outdoors according to their street address; odd numbered addresses on odd numbered days of the month, even number addresses on even numbered days of the month.

ii. Watering is prohibited between 10:00AM and 3:00PM

b. Warnings shall be issued upon first violations, and citations shall be issued upon second and subsequent violations.

8.7.5 PHASE 2: DROUGHT CONDITIONS

A. Environmental Conditions: By April, if winter snow pack is significantly below average and the expected run-off is expected to be extremely low.

B. Steps to be taken:

a. Outdoor watering will be allowed only as follows:

i. All watering customers will be restricted to outdoor watering only on Sundays of every month for even numbered addresses and Saturdays of every month for odd numbered addresses.

ii. Watering is prohibited between 10:00AM and 3:00PM.

- b. Warnings shall be issued upon first violations and citations shall be issued upon second and subsequent violations.

8.7.6 PHASE 3: SEVERE DROUGHT CONDITIONS

A. Environmental Conditions: This phase shall be in effect when the governing body and village management determine that for any reason the Town's supply of water and /or its ability to deliver water is at risk.

B. Steps to be taken:

- a. All outdoor watering is prohibited.
- b. Indoor uses of water shall be minimized.
- c. Warnings shall be issued upon first violations and citations shall be issued upon second and subsequent violations.

C. Each phase of this Water Contingency Plan shall be approved by the Board of Trustees and the public will be notified of this decision.

8.7.7 PENALTY:

Any person convicted of any violation defined in this section shall be punished by a fine not to exceed Five Hundred (\$500) and or 30 days in jail.

8.7.8 ENFORCEMENT OFFICERS:

Authority to enforce this section shall be assigned to, but is not limited to, all police officers, code enforcement officers and meter readers of the Town. Other employees of the Town may be assigned enforcement authority as deemed necessary by the Town Council.

**SECTION 8.8
REFUSE IN BUILDINGS, STAGNANT WATER**

8.8.1 REFUSE IN BUILDINGS; STAGNANT WATER:

It shall be unlawful for any person to permit or suffer to be in or accumulate in, or upon any yard, lot, place or premises or upon any street or sidewalk adjacent to or abutting upon any lot, block, place or premises or in any building or occupied by him or for which he may be agent within the Municipality, any stagnant water, impure water, refuse, vegetable decay or decaying substance, garbage or filth of any kind, nor suffer such yard, lot, place, building or be or to remain in such condition as to cause nuisance or offensive odor or to pollute or render unhealthful the atmosphere or the premises or thereby to be, become, cause or create a public nuisance.

**SECTION 8.9
SOLID WASTE**

8.9.1 ACCUMULATION OF GARBAGE AND RUBBISH PROHIBITED:

It shall be unlawful for any person to deposit, collect or accumulate or permit the deposit, collection or accumulation of any garbage, with the Municipality.

**SECTION 8.10
ADDRESSING**

8.10 [RESERVED FOR ADDRESSING (911)]