

**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY**

RESOLUTION NO. 2012-

**A RESOLUTION ESTABLISHING PROCEDURES FOR THE ORDERLY AND
UNIFORM ADMINISTRATION OF THE SANTA FE COUNTY PROCESS FOR ROAD
ACCEPTANCE, DESIGNATION OR RE-DESIGNATION, AND FOR THE VACATION
OF COUNTY-MAINTAINED ROADS**

SECTION 1. GENERAL PROVISIONS AND PURPOSE.

The purpose of this Resolution is to establish procedures for the orderly and uniform administration of the Santa Fe County process for road acceptance, designation or re-designation, and vacation of County roads.

SECTION 2. ROAD MAINTENANCE.

A. Scope of Maintenance. Only roads which have been designated as County Roads shall be maintained by the County. Non-County Roads will not be maintained except in an emergency as described herein. Section 4 below describes the three types of County Roads.

B. No Guarantee Regarding the Level of Maintenance. Maintenance of County Roads is contingent on adequate funding and the limitations of manpower, weather and equipment. Accordingly, the County makes no representation, warranty, guarantee or promise about the level of maintenance regardless of the maintenance designation assigned pursuant to this Resolution.

SECTION 3. INITIAL DESIGNATION.

By no later than December 31, 2012, the Director of the Department of Public Works shall classify in writing all County Roads according to the road designations set forth in Section 4, and shall place that list on the County website. The list will be updated periodically at the direction of the Director of the Department of Public Works. Thereafter roads shall be added to or removed from the list, only after formal action of the Board of County Commissioners for Santa Fe County (BCC).

SECTION 4. THREE TYPES OF COUNTY ROADS.

A. Fully Maintained County Road. A Fully Maintained County Road is a road which has been accepted for County maintenance without express limitations on the scope of that maintenance. Each Fully Maintained County Road shall be assigned a number or name and marked by a blue street name sign with yellow letters. Maintenance services on Fully Maintained County Roads may include routine maintenance, snow removal, dust control, installation or replacement of base course, chip seal, asphalt, concrete or other paving,

installation and repair of drainage structures, pot-hole repair, bridge construction and repair, signage, and periodic resurfacing. Prior to action by the BCC accepting or altering a Fully Maintained County Road, the road must meet then existing County road standards.

B. Lesser County-Maintained Road. A Lesser County-Maintained Road is a road which has been accepted for County maintenance with express limitations on the scope of that maintenance. Each Lesser County-Maintained Road shall be designated by a blue sign with yellow letters with an "L" at the bottom. Services on a Lesser County-Maintained Road shall be limited to a maximum of twice-annual motor grading, signage, limited snow removal contingent on the availability of labor and equipment, and minor repairs. The Director of the Department of Public Works shall develop a maintenance schedule for each proposed Lesser County-Maintained Road prior to presentation of the road to the BCC for possible acceptance, and the maintenance schedule shall be incorporated into the proposed resolution adopting the Lesser County-Maintained Road. Once adopted, the Director of the Department of Public Works shall have authority to modify the maintenance schedule of each Lesser County-Maintained Road periodically provided the modification is made in writing and posted on the County website prior to implementation.

C. Shared Maintenance Road. Maintenance responsibility for a County Road may be shared between the County and a private individual or individuals, a homeowners' association, a Public Improvement District, or a corporation, partnership, LLC or other entity. Shared maintenance of a County Road shall be documented in a binding written agreement.

SECTION 5. RE-DESIGNATION.

Following designation of a County Road into one of the categories set forth in Section 4, the road may be assigned to a different category of maintenance only by formal action of the BCC.

SECTION 6. ESTABLISHMENT OR ALTERATION OF A COUNTY ROAD.

A. Application Required. The BCC will consider any petition seeking to establish or alter a County Road, however no petition shall be granted absent the simultaneous submission of a completed application. All petitions must comply with NMSA 1978, Section 67-5-5 (1953) *et seq.* The application form is attached hereto as Appendix A. If several persons apply together to establish or alter a road, they must select a person to serve as the representative and point of contact during the application process for purposes of discussions with staff. Additionally, a copy of the most recent deeds or plats of lands encompassing the road shall be submitted with the application.

B. Expense of Viewing. Pursuant to NMSA 1978, Section 67-5-7, an applicant must deposit with the Santa Fe County Clerk a sufficient sum of money to defray the expense of the mandatory viewing the proposed road. The BCC shall determine the sum of money to be deposited at the next regular meeting of the BCC for which proper noticing can be accomplished following submission of the complete application and petition. The application will be processed

following deposit of the sum required at the Santa Fe County Treasurer's Office. Checks shall be made payable to the Santa Fe County Treasurer.

C. Payment or Protest of Property Taxes Prior to Acceptance or Alteration. If any parcel that abuts the road right-of-way has delinquent property taxes at the time application is made, the BCC shall decline to accept or alter a County Road until such time as the taxes are current or the taxes have been challenged pursuant to New Mexico statutes.

D. Compliance with County Road Standards. The application must clearly identify any requested waivers from County road standards applicable to the road proposed for acceptance or alteration. In general, a waiver will only be considered if it is determined by staff and the Road Advisory Committee that an extreme health and safety issue exists which can be addressed only through the waiver of County road standards. Each road proposed to become a Fully Maintained County Road shall meet the minimum design and construction standards established by the County at the time of application. This includes, but is not limited to, standards established by the Land Development Code and the Sustainable Land Development Code, as applicable, standards established by the Department of Public Works, and relevant provisions of the Standard Specifications for Highway and Bridge Construction of the New Mexico Department of Transportation. An applicant may request that a Lesser maintained road be accepted or altered with specific requested deviations from applicable road standards provided the deviations do not compromise safety.

E. Optional Pre-Application Meeting. Prior to submitting an application for acceptance or alteration of a County Road, the applicant may meet with staff of the Department of Public Works, who will review the application for completeness and sufficiency.

F. County Research and Inventory. Within thirty days of receipt of a completed application, and following the BCC determination of the amount to be deposited to defray the costs of the mandatory viewing and deposit of that fee, the Department of Public Works shall conduct research into the ownership of the properties upon which the proposed road lies. If title work is required the cost of that title work shall be paid by the applicant. Failure to make such payment shall result in rejection of the application and Petition by the BCC. Staff from the Department of Public Works shall also visit the site, measure the road, evaluate its condition, evaluate any drainage or other maintenance risks, determine the location of above-ground or underground utilities, conduct a traffic impact analysis, determine any driving hazards, determine the primary use of the road, and conduct any required testing.

G. Viewing and Reporting. When an application and accompanying petition seeking acceptance or alteration of a County Road is submitted to the County, the Road Advisory Committee shall identify three members of the Committee recommended for appointment to the board of commissioners to complete a viewing of the road. The BCC shall appoint as the board of commissioners to complete the viewing three freeholders who are members of the Road Advisory Committee. Each appointed board of commissioners shall fulfill the responsibilities set forth in NMSA 1978, Section 67-5-9 (1953), including providing notice of the scheduled viewing. The Road Advisory Committee shall advise the County Clerk of the three selected to serve as viewers so that the County Clerk can, pursuant to NMSA 1978, Section 67-5-10 (1953),

issue the necessary warrants. The Sheriff shall serve the warrants to the board of commissioners pursuant to NMSA 1978, Section 67-5-11 (1953). The board of commissioners shall also fulfill those duties set forth in NMSA 1978, Section 67-5-12 (1953) and submit a report to the Office of the Santa Fe County Clerk in conformity with NMSA 1978, Section 67-5-14 (1953) and the reporting requirements of this Resolution set forth below at Section 6(H). The report shall describe the condition of the road, its estimated annual maintenance cost, availability of right-of-way, any unusual problems or conditions discovered during the research and inventory conducted by the Department of Public Works, and shall evaluate the road according to the criteria set forth in Section 7, herein. The report shall indicate whether the request should be approved, modified, denied, or approved with conditions. No member of the Road Advisory Committee shall be appointed as a viewer who has any financial or familial interest (to the second degree) in the road in question.

H. Action of the BCC Following Completion of Viewing and Reporting.

Thereafter, in accordance with NMSA 1978, Section 67-5-15 through 18, the BCC shall hold a public hearing, and after considering all objections that there may be to the application and petition, shall take action on the report of the viewers. If the request is approved, the BCC shall execute a Resolution of Approval, which shall include the number, composition, length, condition, location of the road, together with all information required by NMSA 1978 Section 67-5-17 as appropriate. If the road was not previously a County Road, the Resolution of Approval shall order the road made open for travel and declared a public highway, and shall order copies of the Resolution of Approval posted at three public places along the line of said road, giving all parties (60) sixty calendar days notice of the commencement of County maintenance and public use. The BCC shall also establish the sum to be paid to each member of the board of commissioners for their service as viewers, not to exceed five dollars per day. If the BCC determines to establish or alter a County Road, the full and final report of the views including the plat and report of a surveyor shall be recorded in the office of the County Clerk. The County Road shall only be opened after compliance with NMSA 1978, Section 67-5-17 (1953).

I. Time Limits. The BCC shall appoint a board of commissioners at the regular BCC meeting immediately following submission of a petition, provided the submission is received in time for captioning of an action item on the agenda of the BCC. If the submission does not provide sufficient time for captioning of an action item on the agenda, the appointment of the board of commissioners shall occur at the next regularly scheduled meeting of the BCC. The board of commissioners shall conduct their onsite inspection within fifteen (15) calendar days of appointment and shall complete their report within forty-five days of appointment unless the board of commissioners seeks and receives an extension of time for completion from the BCC. Following filing of the report, the BCC will take action on the application and petition at the next regularly scheduled BCC Meeting upon which an action item can be placed on the agenda in compliance with the New Mexico Open Meetings Act and the Santa Fe County Open Meetings Act Resolution.

J. Acquisition of Right-Of-Way or Easements. Each property owner with ownership in real property which is proposed to become part of a County Road shall execute a Request for County Road Maintenance and shall prior to action by the BCC on the petition, execute a Grant

of Right-of-Way, Easement, or deed in a form acceptable to Santa Fe County, which instrument shall only be recorded if the petition is approved. A petition will not be granted by the BCC absent timely provision of necessary easements by the applicant. Each right-of-way or easement granted hereunder shall offer an unconditional dedication to Santa Fe County for installation, maintenance and use of a public road.

K. Government Property.--- Where an application for acceptance or alteration of a County Road has any portion of the road located on government property (federal, state, municipal, special districts) that portion of the road may be accepted or altered only where a license, right-of-way, easement, or deed is provided to and accepted by the County. Roads located on property held by the United States Government in trust for a Native American Pueblo may be maintained under a license or written agreement from the Tribe or Pueblo or under a lease from the Bureau of Indian Affairs, as appropriate. The applicant bears responsibility for securing the necessary license, right-of-way, easement or deed, in a form acceptable to the County.

L. Title insurance. If right-of-way in fee is provided to or acquired by Santa Fe County for a County Road, at the time of transfer or closing, title insurance that shows clear title to the road shall be provided by the applicant to the County in a form acceptable to the County.

M. Survey. At the time of transfer of any right-of-way, easement or title to property associated with acquisition or alteration of a County Road, the applicant shall provide a survey and plat of survey in a form acceptable to the County and prepared by a Registered New Mexico Land Surveyor meeting the Minimum Qualifications for Land Surveying in New Mexico. If a new survey must be performed to meet this requirement, the costs of the survey shall be borne by the applicant.

N. Exceptions. The acceptance or alteration procedure set forth herein for County Roads shall not apply to any road mandated by a court of competent jurisdiction or as a result of an emergency. The abandonment or vacation of County roads, which is governed by the standards and procedures set forth in NMSA 1978, Section 67-5-4 (1905, as amended), is described in Section 8 below. Re-designation to lesser-maintained County road status from County-maintained road status does not constitute abandonment or vacation, and such a re-designation may be accomplished through the procedures set forth herein.

SECTION 7. CRITERIA FOR EVALUTING ROAD PROPOSED FOR ACCEPTANCE OR ALTERATION.

The following factors shall be evaluated in response to an application and petition for acceptance of alternation of a County Road.

A. Technical Factors:

i. Whether the road is designed and constructed to County standards as established herein;

- ii. Whether clear title to the road exists and whether title can and will be transferred to the County upon acceptance;
- iii. Whether past environmental contamination or past environmental contamination exists;
- iv. Whether the road exhibits any unusual maintenance characteristics;
- v. Whether a significant number of persons rely on the road for access and whether a minimum of 100 average daily trips (ADTs) are associated with the road;
- vi. Whether there is a high number of vehicle accidents and injuries or deaths associated with the road;
- vii. Whether the road is needed for emergency access;
- viii. Whether the road is presently classified as a school bus route or is expected to be so classified in the future;
- ix. Whether there exist dust problems or other public environmental health issues associated with the road;
- x. Whether there are drainage and flood hazards associated with the road;
- xi. Whether the road has been identified on County long-range planning documents;
- xii. Whether damage or benefits may accrue to any person(s) as a result of the proposed re-designation;
- xiii. Whether economic benefit will accrue from the proposed redesignation;
- xiv. Whether an adequate easement or right-of-way exists for the road in question; and
- xv. Whether utility corridors and utility/fixture relocation are needed on the proposed road that will not be provided absent redesignation.
- xvi. A road shall not be accepted, altered or re-designated from one level of maintenance to another if maintenance is impossible, dangerous, burdened by environmental problems, or unreasonably costly.

SECTION 8. ABANDONMENT OR VACATION.

The BCC may determine that any road or part of road currently designated as lesser or fully County-maintained may no longer be needed, or that the repairs of the same may be

burdensome and in excess of the benefits conferred. In this case, the BCC will follow the following procedure:

A. At a regular meeting direct the Road Advisory Committee to appoint three of its members who meet the requirements described in NMSA 67-5-4 (1953) to view such road or part of road. These members will evaluate the road or part of road against the criteria found in Section 7 and compile a report setting forth fully their findings.

B. Any person with a real property interest in the road or whose property abuts the road will be notified of the evaluation by the Road Advisory Committee or Department of Public Works staff.

C. The Road Advisory Committee report will be presented to the BCC at their next regular meeting. If the report recommends a discontinuance of such road or part of road, then the BCC may order the same vacated.

D. If the County Road or part of road is ordered vacated for maintenance purposes only, the Department of Public Works shall perform a final set of maintenance activities to the affected road and remove all applicable signage. Public access easements for the road are not vacated by this process and will remain intact.

PASSED, APPROVED AND ADOPTED this ____ day of January, 2010.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Liz Stefanics, Chair

ATTEST:

Valerie Espinoza, Santa Fe County Clerk

APPROVED AS TO FORM:

Stephen C. Ross, Santa Fe County Attorney