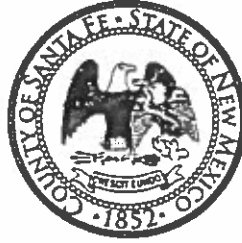


Henry Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *March 16, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* *AL 3/17/15*

VIA: *Katherine Miller, County Manager* *KM 3/27/15*

ITEM AND ISSUE: *BCC Meeting March 31, 2015*

Ordinance No. 2015-____, An Ordinance Amending the Right-of-Way Use Ordinance, Ordinance No. 2003-1, as Amended by Ordinance No. 2009-5. (Final Public Hearing) (Public Works/Adam Leigland)

SUMMARY:

Ordinance No. 2009-5 amended Section 10 of the Ordinance No. 2003-1, the Right-of-Way Use Ordinance, to increase the fees charged for Right-of-Way Use permits. The proposed ordinance would undo this fee increase - which has never been implemented- so as to resolve pending litigation and allow the Board of County Commissioners (Board) to consider a possible fee increase and other possible amendments to the Right-of-Way Use Ordinance at a time of its own choosing.

DISCUSSION:

The increased fees enacted by Ordinance No. 2009-5 was challenged in District Court by the Public Service Company of New Mexico, New Mexico Gas Company, Comcast of California XIV, LLC, and Qwest Services Corporation. Santa Fe County agreed to suspend collection of the increased fees enacted by Ordinance No. 2009-5. As a result and by stipulation of the parties, the litigation has never been resolved. The District Court has indicated, however, that the litigation cannot perpetually linger. And the utility companies are unwilling to dismiss the action so long as the increased fees remain on the books.

The proposed ordinance would undo the increased fees by reenacting the prior version of Section 10 enacted by Ordinance No. 2003-1. This would allow the lawsuit to be dismissed, thereby avoiding unnecessary litigation costs. The Board could then consider proposed fee increases (and other possible amendments to the Right-of-Way Use Ordinance) in the future at a time of its own choosing, without regard to Court deadlines.

The BCC authorized staff to publish title and general summary of the proposed ordinance at the February 24, 2015, BCC meeting. The title and general summary was published in the Albuquerque Journal on March 16, 2015, for the public hearing to be conducted at the March 31st BCC meeting.

ACTION REQUESTED:

Approve subject ordinance

SANTA FE COUNTY

ORDINANCE NO. 2015-_____

AN ORDINANCE

AMENDING THE RIGHT OF WAY USE ORDINANCE, ORDINANCE NO. 2003-1, AS
AMENDED BY ORDINANCE NO. 2009-5

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA
FE COUNTY:

Section 1. Section 10 of the Right of Way Use Ordinance, Ordinance No. 2003-1, as
amended by Ordinance No. 2009-5, is hereby amended to read as follows:

“A permit fee of seventy-five dollars (\$75.00) shall be charged and collected for
each proposed activity and for each permit issued up to 600 lineal feet. The
seventy-five dollar (\$75) fee collected shall be distributed as follows: Sixty seven
percent (67%) shall be designated to the County general fund and thirty three
percent (33%) shall be designated to a road maintenance fund for repair of
roadways. For permits in excess of 600 lineal feet, the fee will be prorated by
dividing the length by 600, then multiplying it by seventy-five dollars (\$75).
Except for the Public Works Department, which is not required to obtain a permit
for any of its projects, all other County departments shall be required to obtain a
permit.”

Section 2. Effective Date. This ordinance shall take effect thirty days after it is recorded
by the County Clerk, pursuant to NMSA 1978, § 4-37-9.

PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF SANTA FE
COUNTY THIS _____ DAY OF MARCH, 2015.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Robert A. Anaya, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

Approved as to Form:

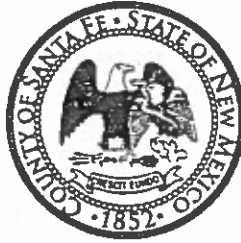
Gregory S. Shaffer, County Attorney



Henry Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *March 16, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* 3/17/15

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting March 31, 2015*

Ordinance No. 2015-__, An Ordinance Establishing Weight Limits on Various County-Maintained Roads (First Public Hearing) (Public Works/Robert Martinez)

SUMMARY:

The purpose of this ordinance is to restrict heavy truck traffic, which exceeds the allowable weight the asphalt pavement of the road will support, by imposing a maximum weight limitation or no-through-truck traffic restrictions.

DISCUSSION:

The BCC authorized staff to publish title and general summary of the proposed ordinance at the February 24, 2015, BCC meeting. The title and general summary was published in the Albuquerque Journal on March 16, 2015, for the two public hearings to be conducted at the March 31st and April 28th BCC meetings.

The Public Works Department frequently receives complaints from the public regarding commercial heavy truck traffic in their neighborhoods. In order to uniformly impose heavy truck traffic restrictions, staff developed policies and procedures for proposing weight limits on asphalt paved County roads. On October 14, 2014, the BCC adopted Resolution 2014-114 "A resolution adopting policies and procedures for proposing weight limits on asphalt paved roads maintained by Santa Fe County".

As per the adopted policies and procedures, staff conducted assessments on County Road 33-Old Lamy Trail, County Road 62-Caja del Oro Grant Road, Caja del Rio Road and County Road 45-Bonanza Creek Road. The results are as follows:

- **County Road 33-Old Lamy Trail**, which extends from US 285 into the community of Lamy, is an access road to a historic residential area and a rail road station for Santa Fe

Southern Railway and Amtrak. The structural number for said paved road, which accounts for a 2% growth, meets the existing traffic conditions, but heavy truck traffic that exceeds the current conditions will cause said road to fail prematurely. A **5-ton weight limit per axle** is required for this road.

- **County Road 62-Caja del Oro Grant Road**, which extends from Agua Fria Road to NM 599 Frontage Road, provides access to NM 599 and neighborhoods north of NM 599. The structural number for said paved road, which accounts for a 2% growth, does not meet the existing traffic conditions and will cause said road to fail prematurely. A **5-ton weight limit per axle** is required for this road.
- **Caja del Rio Road**, which extends from the NM 599 Frontage Road to Las Campanas Drive, provides access to the Municipal Recreation Complex, Marty Sanchez Golf Course, Santa Fe Animal Shelter, and Caja del Rio Landfill. The structural number for said paved road, which accounts for a 2% growth, meets the existing traffic conditions. As per the Settlement and Road Improvement Agreements between the County, King Brothers Ranch, Western Mobile Incorporated, Richard Cook and Las Campanas Limited Partnership, dated October 6, 1997, which acquired the right-of-way for said road, a 10,000 pound weight limit shall be posted on said road north of the landfill access road (Wildlife Way). A **5-ton weight limit** is required for this road.
- **County Road 45 –Bonanza Creek Road**, which extends from NM 14 to the I-25 Frontage Road, provides access to various communities east of NM 14. The structural number for said paved road, which accounts for a 2% growth, meets the existing traffic conditions, but heavy truck traffic that exceeds the current conditions will cause said road to fail prematurely. A **5-ton weight limit per axle** is required for this road.

These restrictions are intended for all vehicles, except for fire and other emergency apparatus, road machinery engaged in highway construction or maintenance, implements of husbandry, including farm tractors, temporarily moved upon a highway, and other vehicles as determined by the Board; to include provisions for the issuance of temporary, excessive weight permits.

ACTION REQUESTED:

Public Works requests the BCC to conduct the first public hearing of the proposed ordinance establishing weight limits on various County-maintained roads.

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

ORDINANCE NO. 2015-__

**AN ORDINANCE
ESTABLISHING WEIGHT LIMITS ON VARIOUS COUNTY MAINTAINED ROADS**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY:**

1. **SHORT TITLE.** This Ordinance shall be cited as the "County Road Weight Limit Ordinance" and shall be referred to herein as the "the Ordinance" or "this Ordinance."

2. **AUTHORITY.** This Ordinance is enacted pursuant to NMSA 1978, § 3-49-1, § 4-37-1, § 4-37-3, and § 66-7-415, and the Weight Limit Policy.

3. **DEFINITIONS.**

A. "Emergency vehicle" means any fire department vehicle or apparatus, police vehicle or apparatus, ambulance, and any other emergency vehicles or apparatus operated by the State of New Mexico, a municipality or county, or a public utility.

B. "Board" means the Board of County Commissioners of the County.

C. "County" means Santa Fe County.

D. "Combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear.

E. "Gross combination vehicle weight" means the total of the gross vehicle weights of all units of a combination

F. "Gross vehicle weight" means the weight of a loaded vehicle.

G. "Implement of husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner in the conduct of agricultural operations.

H. "Motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails

I. "Permitting officials" means the Public Works Department Director or staff designated by him in writing as having the authority to issue temporary, excessive weight permits.

J. "School bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events, but not including a vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission but is not used exclusively for the transportation of students; or

(3) operated as a per capita feeder as defined in Section 22-16-6 NMSA 1978.

K. "Semitrailer" means a vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle.

L. "Ton" means 2,000 pounds.

M. "Trailer" means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle.

N. "Truck" means every motor vehicle designed, used or maintained primarily for the transportation of property. LO. "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed to carry a part of the weight of the vehicle and load drawn.

P. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including any frame, chassis, body or unitized frame and body of any vehicle or motor vehicle, except devices moved exclusively by human power or used exclusively upon stationary rails or tracks.

O. "Weight Limit Policy" means the Policy adopted by Resolution No. 2014-114.

4. FINDINGS.

A. Roads paved with asphalt represent a significant investment by the County, since asphalt pavement is the most expensive road construction material.

B. Asphalt paved roads are engineered and constructed to withstand specific maximum weights and traffic volumes on a regular basis.

C. Pursuant to the Weight Limit Policy, the Public Works Department has assessed the roads identified in Section 5 of this Ordinance to determine if weight limits are advisable.

D. Based upon the Public Works Department's assessment, the Board has determined that the weight limits established in Section 5 should be imposed to protect the identified roads.

5. WEIGHT LIMITS ON DESIGNATED ROADS.

<u>Road or Portion of Road</u>	<u>Weight Limit</u>
County Road 33-Old Lamy Trail	Gross vehicle weight and gross combination vehicle weight shall not exceed five (5) tons per

	axle.
County Road 62-Caja del Oro Grant Road	Gross vehicle weight and gross combination vehicle weight shall not exceed five (5) tons per axle.
Caja del Rio Road North of the Entrance to the Caja del Rio Landfill to Las Campanas Drive	Gross vehicle weight and gross combination vehicle weight shall not exceed five (5) tons
County Road 45 –Bonanza Creek Road	Gross vehicle weight and gross combination vehicle weight shall not exceed five (5) tons per axle.

Gross vehicle weight and gross combination vehicle weight limits are determined by multiplying the number of axles times five (5) tons. For example, the gross combination vehicle weight limit for a combination truck tracker and trailer with a total of 4 axles would be 40,000 pounds.

6. **EXCEPTIONS.** The weight limits established in Section 5 of this Ordinance shall not apply to emergency vehicles, road machinery engaged in highway construction or maintenance or to implements of husbandry, including farm tractors, temporarily moved upon a highway, or to vehicles making deliveries to or providing services to addresses on a road identified in Section 5 of this Ordinance or addresses on adjacent roads served only by that road, including, but not limited to, solid waste removal services, or to a vehicle operated under the terms of a temporary, excessive weight permits issued in accordance with this Ordinance.

7. **TEMPORARY, EXCESSIVE WEIGHT PERMITS.**

A. General Authority. Permitting officials may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a weight exceeding the maximum specified in Section 5 of this Ordinance.

B. Length of Permit: Conditions. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by permitting officials. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the permitting officials. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. Violating a condition or term of a temporary, excessive weight permit issued pursuant to this section shall constitute a violation of this Ordinance and shall be subject to the penalties set forth in Section 9. In addition, violating a condition or term of a temporary, excessive weight permit issued pursuant to this section shall constitute grounds for revocation of the temporary, excessive weight permit.

C. General Standards and Conditions. Temporary, excessive weight permits will not be issued unless:

1. there is no reasonable way by reduction or division of the vehicle or equipment to meet the applicable weight limits;

2. the proposed excessive weight trips are not likely to damage the road(s) for which the permit is issued; and

3. the applicant has made satisfactory arrangements to indemnify the County for the cost of repairing any damage caused to the roads by the excessive weight trips.

D. Specific Conditions for the Removal of a Manufactured Home from a Property.

1. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, permitting officials shall furnish the following information to the property tax division of the taxation and revenue department: the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home, and the identification and registration numbers of the manufactured home.

2. A permit shall not be issued pursuant to this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to permitting officials proof that a certificate has been issued by the County Assessor or County Treasurer showing that either:

a. all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

b. liability for property taxes on the manufactured home does not exist for the current tax year or a past tax year, except for manufactured homes located on an Indian reservation.

8. CONDITIONS PRECEDENT TO EFFECTIVENESS OF RESTRICTIONS.
The weight limit established in Section 5 of this Ordinance for a particular road shall not be effective until the Public Works Department:

A. erects or causes to be erected and maintained signs designating the weight limit and provisions of this Ordinance at each end of that portion of any street affected; and

B. gives notice and a copy of this Ordinance to the nearest officer or employee of the New Mexico Department of Public Safety, Motor Transportation Division authorized to issue special permits and the Santa Fe County Sheriff.

9. PENALTIES AND CITATIONS.

A. Violations of this Ordinance shall be punishable by a fine of three hundred dollars (\$300) per violation.

B. Prosecution of violations of this Ordinance may be commenced by the issuance of a citation charging the violation. Citations may be issued by the County Sheriff and Deputy County Sheriffs.

10. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after it is recorded in the office of the County Clerk.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE
COUNTY THIS ____ DAY OF _____, 2015.**

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

By: _____
Robert A. Anaya, Chair

ATTEST:

Geraldine Salazar
County Clerk
APPROVED AS TO FORM:

Gregory S. Shaffer
County Attorney



