



# Torrance County Maintained Road Policy

*Adopted August 12, 2015*

## SECTION I: GENERAL PROVISIONS

- 1. Purpose.** The purpose of this document, hereinafter referred to as the Road Policy, is to establish policies and procedures for the orderly and consistent management and administration of the Torrance County Maintained Road Network and to provide the Torrance County Board of Commissioners a uniform process and system to insure that fair and equitable treatment is exercised to provide County Maintained Road services. The overall purpose of this document is to establish standards for design and construction of safe and durable roads for the benefit of all citizens of the County within the limitations of funding, manpower, and equipment available to the County. The Commission strives to maintain County Maintained Roads to the best of its ability, given its limited resources. Torrance County is responsible for maintaining approximately 1,000 miles of County Maintained Roads, with very limited resources. Considering the number of miles and limited resources, the Commission must prioritize its road network for maintenance.

In the event the County has inadequate equipment and machinery to grade and maintain County Maintained Roads, as set forth, the Commission may request that the State Transportation Commission furnish available equipment and machinery in the vicinity, along with the operators and personnel required to perform such work. Pursuant to Section 67-4-4, NMSA 1978, in such a case, consideration from the County to the State Transportation Commission would be limited to “the actual cost of the fuel, oil and wages of such operators and personnel involved in the work performed.”

- 2. Applicability.** This document applies to all County Maintained Roads located within the unincorporated areas of Torrance County, New Mexico. This document also applies to the platting, design and maintenance of any road within a proposed subdivision, in conjunction with the requirements of the New Mexico Subdivision Act, N.M.S.A. 1978, §§ 47-6-1, et seq. (as amended), and the Torrance County Subdivision Ordinance (as amended).
- 3. Declaration of Torrance County Maintained Roads.** All roads which have been established as a Torrance County Maintained Road pursuant to the laws of New Mexico by the following, and with acceptance by the Board of County Commissioners:
  1. Petition and declaration by Torrance County Commissioners as recorded in minutes of such proceedings.
  2. Dedication to use and benefit of the public by filed plat if approved and adopted by the County Commission.
  3. Deeded to Torrance County from the landowner by Warranty Deed, Quit Claim Deed, or other legal deed.
  4. Easement.
  5. Prescriptive right.
  6. Donation by owner.
  7. Purchased by Torrance County.

8. Power of eminent domain.
9. Other legal acquisition by Torrance County.

In certain instances, roads within existing County subdivisions have been declared and dedicated to the use and benefit of the public, but have not been accepted for County maintenance. Nothing in this policy shall change or alter the status of those roads that currently exist but are not maintained by Torrance County.

**ALL ROADS, AS DESCRIBED ABOVE, ARE HEREBY DECLARED** to be Torrance County Maintained Roads and all such roads shall be designated on the official Torrance County Maintained Road Map (as updated) which is hereby and hereinafter declared a part of this policy.

4. **Torrance County Maintained Road Map.** Each year a new updated map will be prepared and submitted for approval to the Torrance County Commission.

## **SECTION II: MAINTENANCE CLASSIFICATION**

1. **County Maintained Road.** A County Maintained Road is a road that has been accepted for County maintenance. Each County Maintained Road is or will be assigned a number and/or a name. Maintenance on County Maintained Roads may include routine maintenance, as defined below, pavement, asphalt, chip seal, grading, shredding, dust control, replacement of base coarse, installation and repair of drainage structures, snow removal, pothole repair, signage, resurfacing, weed control, mowing, and such other maintenance as may from time to time be determined. Routine maintenance typically consists of blading as well as repairing pot holes, patches, improvements, repair and maintenance of existing cattle guards and culverts as further detailed herein.

**Snow Removal.** As with road maintenance, the County's ability to remove snow from County Maintained Roads is limited by available resources. The County has limited graders, plows and cindering trucks. As a result, it is necessary to prioritize snow removal.

When snow depth is five (5) inches or greater on non-paved County Maintained Roads, and three (3) inches or greater on paved County Maintained Roads, the Road Department shall commence snow removal. Snow removal shall proceed in the following order, unless emergency situations dictate otherwise:

1. Those County Maintained Roads, which are essential for emergency services, shall be the first priority for snow removal.
2. School Bus Routes. New Mexico law, at NMSA § 22-16-10, authorizes the County to remove snow on any school route. School Bus Routes shall be the second priority for snow removal.
3. Thereafter, as time and equipment permits, the Road Department shall remove snow from non-essential County Maintained Roads in the order of priority established for routine maintenance. Specifically, after roads for essential

emergency services and school routes are cleared, the Road Department shall begin clearing quarterly maintained roads.

**Treatment of School Bus Routes.** School bus routes that are on private roads will not be maintained by the county. However, as noted above, the County is authorized by New Mexico law to remove snow from any school bus route, including private roads.

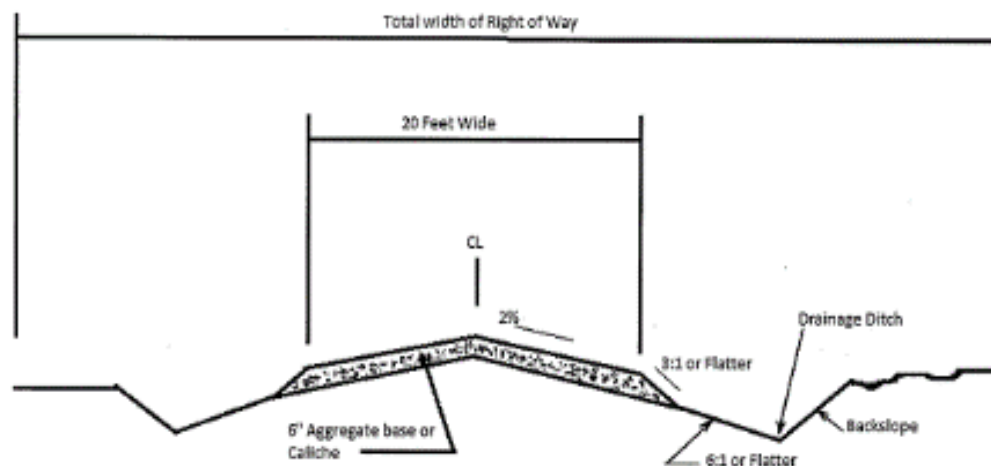
**Classification.** For internal scheduling purposes only, the County Road Department may classify County Maintained Roads according to their road surface, i.e., dirt, caliche, chip-seal, pavement, asphalt.

## 2. Treatment of Private Roads

- a. Absent a declared emergency, the County shall not maintain any private road.
- b. The County shall not remove snow from a private road, unless the private road is a school bus route as set out above.

## SECTION III: ROAD MAINTENANCE / ACCEPTANCE / SCHEDULING

1. **County Maintained Road Cross Section.** A drawing of the cross-section of a typical County subdivision road is set forth herein and, all roads in proposed subdivisions, to be approved and accepted by the County, must meet the criteria shown. To the extent that this section is in variance to the Torrance County Subdivision policy, this section shall prevail.



Torrance County Typical Road Section

2. **Maintenance Schedule.** Regular maintenance (grading and shaping) of a County Maintained Road shall take place quarterly, or every 3 months. However, certain natural factors, such as drought, monsoon or excessive snow, may alter or hinder the regular maintenance schedule. The County, at its discretion, reserves the right

to initiate and implement the construction, development or quarterly maintenance of any County Maintained Road or any road accepted by the County as a County Maintained Road at County expense whenever it is so deemed appropriate and beneficial to the overall County Maintained Road network by the Torrance County Board of Commissioners and provided there are sufficient funds, manpower, and equipment to accomplish such work. The County will only maintain roads that are County Maintained Roads at the date of instituting this policy or that have been accepted by the Torrance County Board of Commissioners in a publicly held Commission meeting as set out hereafter.

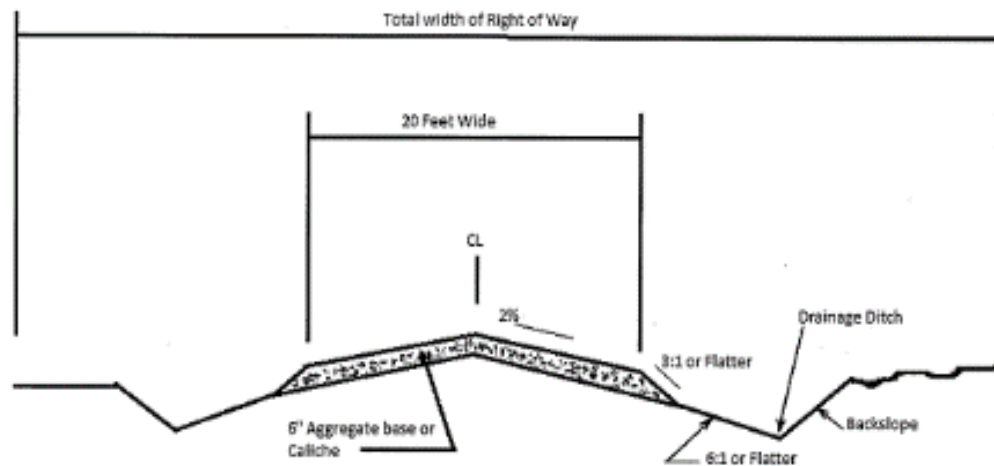
- A. Real Property Rights Required.** Real property rights shall be granted to the County for all roads or rights-of-way accepted and approved by the Board of County Commissioners of Torrance County in a publicly held Commission meeting, within six (6) months after preliminary approval, as is determined legal and necessary by the County Attorney to insure appropriate legal rights and interests of such roads are vested to the County.
- B. Minimum Right-of-Way Widths Required.** A minimum right of-way width of at least fifty (50) feet shall be granted by fee title to the County for all privately owned roads accepted by the County as County Maintained Roads. The County, at its discretion, may require a wider right-of-way in cases that a wider right-of-way can be determined as necessary for public health, welfare and safety. Nothing contained herein shall be construed as altering the requirements for roadway width in subdivisions approved prior to the institution of this policy and right of way widths for roads in approved subdivisions hereafter approved shall be as specified in County Subdivision Regulations. Further nothing contained herein obligates the Board of County Commissioners to accept any road in any subdivision, whether approved before or after institution of this policy, as a County Maintained Road. The Board of County Commissioners reserves the right to alter required road widths on a case by case basis when necessary to preserve the health, welfare and safety of the public.
- C. Minimum Road Construction.** Torrance County standards specifications for road construction and/or road maintenance for any non-subdivision road must meet the following conditions:

  - 1. The road shall have a minimum top measurement of twenty-four (24) feet.
  - 2. The road sub-base shall be compacted to at least ninety-five percent (95%) compaction rate.
  - 3. The road base shall consist of at least six (6) inches of NON-SPEC. Base Course (caliche).
  - 4. Each road shall have at least a three percent (3%) crown.
  - 5. For an existing chip seal County Maintained Road, in addition to the above-referenced four requirements, each road shall meet the following additional conditions:

- a. Double Penetration -Minimum (or suitable alternates)
  - i. Asphalt Emulsified Prime
  - ii. HFE 100P -Shot Rate between .45 and .55
  - iii. HFE 90P:
    - 1. 10 gallon per square yard or equivalent shot rate minimum .45 to .55
    - 2. Chips with first penetration (5/8" chips - minimum 25 lbs per square yard)
    - 3. Chips with second penetration (1/2" or 5/8" chips -minimum 25 lbs per square yard)

**3. Subdivision Roads.** No subdivision road will be accepted by the County nor shall said road be part of the County Maintained Road system, or subject to County maintenance unless the road is approved by the Torrance County Commission pursuant to the County's Subdivision Regulations. Any and all roads built or constructed in a Torrance County subdivision must meet the current minimum road specifications that are in existence at that time. The following are the minimum specifications as of the adoption of this policy:

- A.** The road shall have a minimum top measurement of twenty feet (20).
  - 1. The road sub-base shall be compacted to at least ninety-five percent (95%) compaction rate.
  - 2. The road base shall consist of at least six (6) inches of NON-SPEC. Base Course (caliche).
  - 3. For new subdivisions, at least fifty (50) feet of right of way shall be available for drainage and road surfaces and shall be designated on the plat by the professional engineer retained by the sub divider of each individual subdivision.
  - 4. For subdivisions in existence prior to the adoption of this policy, the Board of County Commissioners retains discretion of road right of way, on a case by case basis.
  - 5. Each road shall have at least a three percent (3%) crown.
  - 6. Double Penetration—Minimum (or suitable alternates)
    - a. Asphalt Emulsified Prime
    - b. HFE 90 - Shot Rate between .45 and .55
    - c. HFE 100P:
      - i. .10 gallon per square yard or equivalent shot rate minimum .45 to .55
      - ii. Chips 5/8" first penetration (5/8" chips - minimum of 25 lbs per square yard)
      - iii. Chips 1/2" second penetration (1/2 chips - minimum of 15 lbs per square yard)
- B.** A drawing of the cross-section of a typical County subdivision road is set forth herein and, all roads, to be approved and accepted by the County, must meet the criteria shown.



Torrance County Typical Road Section

#### 4. Procedure for Vacating or Accepting a County Maintained Road.

- A. Vacating a County Maintained Road. Under New Mexico law at Section 67-5-4, NMSA 1978, the Commission may vacate an existing County Maintained Road or road segment by the following procedures, upon receipt of a petition to vacate by the landowners living adjacent to the County Maintained Road or the County Road Foreman.
  - i. The Commission determines that an existing County Maintained Road or road segment is:
    1. Not needed, or
    2. That the burden of maintaining the existing County Maintained Road or road segment exceeds the benefits therefrom.
  - ii. After making such a determination, at a regular meeting, the Commission then appoints a board of three (3) property owners in the county as road “viewers.” Said viewers shall be unbiased and not residents directly affected by the proposed vacation.
  - iii. A public viewing time and date is set and posted along the road in question.
  - iv. The board of viewers then views the existing County Maintained Road or road segment, at a public viewing. Residents potentially affected by the proposed vacation are encouraged to attend the public viewing to ask questions and voice opinions.
  - v. At the next meeting of the commission, the board of viewers makes a report to the Commission setting forth their finding and recommendation.

- vi. If the board of viewers recommends discontinuance of the existing road or road segment, then the Commission may order the same vacated.
  - vii. If the existing road or road segment, runs on the county line between two counties, then both counties must appoint viewers and the concurrence of both counties is necessary to vacate the road or road segment.
- B. Accepting or Establishing a County Maintained Road.** There are two general methods to establishing a County Maintained Road, namely, by petition or by plat. The methods for establishing a County Maintained Road by petition or plat are detailed in NMSA 1978 67-5-5 through 67-5-21. The following is an overview of the statutory requirements therein.
- i. Establishing a County Maintained Road by Petition
    1. The Commission “may alter, widen or change any established road or lay out any new road, when petitioned by ten freeholders residing within two miles of the road sought to be altered, widened, changed or laid out.” NMSA 67-5-5.
    2. The petition must describe “the road sought to be altered, widened or changed and if the petition be for a new road it shall set forth the points where it is to terminate.” NMSA 67-5-5.
    3. “The petitioners shall deposit with the county clerk of the county in which any road is sought to be altered, widened, changed or laid out and established, a sufficient sum of money, which shall be fixed by the Board of County Commissioners, to defray the expense of viewing the proposed road, which sum shall be paid into the County Maintained Road fund in case the prayer of the petitioner is refused, but if the Board of County Commissioners alter, widen, change or lay out such road, then such sum shall be returned to the person or persons depositing the same. The petitioners in lieu of such deposit may file with the county clerk aforesaid, a good and sufficient bond conditioned for the payment of the expenses of viewing such road should the prayer of the petitioner be refused.” NMSA 67-5-7.
    4. If the County Maintained Road, is on the county line between two counties, then both county commission must be petitioned, pursuant to NMSA 67-5-8.
    5. After a petition is received pursuant to Section 67-5-5 NMSA 1978, the Commission shall appoint a board of three (3) property owners in the County as road “viewers” to view and mark out the requested road. NMSA 67-5-9. The Commission shall set a date and time for the viewing of the requested road.
    6. At least five (5) days before the viewing, the Commission shall cause notices to be posted in the three of the most public places along the requested road. NMSA 67-5-9.
    7. The viewers shall meet at the time and place specified in the notice and commence at the place designated in the petition



as the starting point of the road sought to be altered, widened, changed or laid out and established. NMSA 67-5-12.

8. "The viewers shall proceed to view and mark out the road by setting stakes, blazing trees, turning a furrow or other appropriate monuments to the terminus named in the petition by the most practicable and convenient route that they in their judgment can find." NMSA 67-5-12.
9. The viewers "shall assess the benefits and damages accruing to all persons by reason of the alteration, widening, changing or laying out of the road and award to any person damages in excess of the benefits accruing to the person a sum equal to such excess." NMSA 67-5-12.
10. "If the viewers or a majority of them are of the opinion that the road should be altered, widened, changed or laid out and established, they shall cause a survey and plat of the road to be made by a licensed professional surveyor or other competent person giving the courses and distances and specifying the land over which the road extends." NMSA 67-5-12.
11. "The viewers shall file a report of the view in the office of the county clerk of the county in which such view was made, ten days before the next regular meeting of the Board of County Commissioners held after the same is complete, which shall be signed by a majority of the viewers and shall contain a full statement of their proceedings, a description of the land over which such road extends, an estimate of the cost of opening it for travel, and assessment of the damages and benefits accruing to any person or persons by reason of the alteration, widening, changing or laying out of such road and the sum awarded any person or persons for damages in excess of the benefits assessed to him or them, and if such road be practicable, and the establishment of it be recommended by them. To this report the viewers shall annex the plat, survey and report of the surveyor." NMSA 67-5-14.3
12. "The Board of County Commissioners at their next regular meeting, after the filing of such report, shall proceed to consider the same and all objections that there may be made thereto, and they shall determine whether or not such road shall be established and opened for travel." NMSA 67-5-15.
13. "If the Board of County Commissioners determine(s) to open any such road, they shall cause the full and final report of the viewers including the plat and report of the surveyor to be recorded in the office of the county clerk and recorded in a book kept for that purpose." NMSA 67-5-16.
14. "The Board of County Commissioners having considered the report of any road review, and the compensation to which any person or persons damaged having been ascertained and paid to the owner or owners or into court for him or them, may order the road to be open for travel and declared a public highway.

And if they do so, or order, they shall cause notices to be posted at three public places along the line of such road, giving all parties notice that they have or will direct the proper officers to open and work the same from and after sixty days from the date of such notice: provided, no such road shall be ordered opened through fields of growing crops or along a line where growing crops would thereby be exposed to stock until the owner or owners of such crops shall have sufficient time to harvest and take care of the same.” NMSA 67-5-17.

15. “If the damages assessed to any person or persons by reason of the alteration, widening, changing or laying out of any road, shall exceed the benefits, the excess shall be paid to such person or persons by warrant on the county treasurer for the amount. If any person or persons to whom damages are awarded, be under disability or cannot be found, the same shall be set apart to such person or persons in the county treasury.” NMSA 67-5-18
  16. “If any person or persons be of the opinion that the damages awarded him or them by the viewers are inadequate and insufficient, the Board of County Commissioners may agree with such person or persons upon the measure of the same, and should they fail to so agree such person or persons may appeal from the decision of the viewers to the district court of the county and evidence shall be taken before the court of a referee as in other cases and the court shall determine the amount of damages and render judgment accordingly.” NMSA 67-5-19.
- ii. Establishing a County Maintained Road by Plat. A County Maintained Road may be established by plat if the Commission accepts a dedication of a road. Typically, this occurs when a property owner creates a subdivision.
1. “Whenever a petition shall be presented to the Board of County Commissioners of any County of this state praying for a public highway, and the names of all the owners of all the land through which said road is to be laid out, shall be signed by the owners thereof to said petition, giving the right-of-way through the land, and accompanied by a plat of the road, it shall be the duty of the Board of County Commissioners, if in their opinion, the public good requires it, to declare the same a public highway, and thereupon a plat shall be filed and recorded and the said road shall become a public highway from and after that date.” NMSA 67-5-20.
  2. Under NMSA 67-4-20, the Commission may, by resolution, assess a portion of the expense of maintaining County Maintained Roads that are totally within a subdivision to the owner of any property which abuts the streets.
    - a. “The resolution shall only be adopted after a public hearing, notice of which has been advertised in a newspaper of general circulation within the county for

two consecutive weeks, the first such advertisement being at least ten days prior to the date of hearing.” NMSA 67-4-20.

- b. Any such resolution shall determine:
  - i. “that expense of maintaining the streets,” NMSA 67-4-20(A)(1);
  - ii. “the proportion of the expense to be borne by the property which abuts the streets,” NMSA 67-4-20(A)(2);
  - iii. “the charge to be assessed against each lineal foot of frontage of the abutting property which shall not exceed one-half of the average cost per lineal foot of County Maintained Road maintenance for the prior fiscal year nor be less than one dollar (\$1.00) for each assessment billing,” NMSA 67-4-20(A)(3); and
  - iv. “the assessment, on an equitable basis, of each parcel or tract within the subdivided area according to its proportionate share of the expense of maintaining the streets,” NMSA 67-4-20(A)(4).

**5. Reclassification Standards.** In considering a request for Torrance County to accept or reclassify any road as a County Maintained Road, no road may be reclassified or accepted if the road is not constructed to meet the minimum standards as set forth in this Resolution, or in the case of a subdivision road, the Torrance County Subdivision Ordinance, which is in place as of the date of the request for classification. The Board of County Commissioners may accept the request in-whole or in-part, or may designate only a portion of a road for reclassification.

A road shall not be reclassified as a County Maintained Road if maintenance is impossible, dangerous or unreasonably costly. Nor shall any road be reclassified for County maintenance if environmental problems are identified in an environmental assessment.

**6. Routine Administration of the Road Network.** Any road for which reclassification is sought which does not at the time of application meet the standards set forth this section may be reclassified contingent upon creation of a special assessment district to finance necessary road improvements. Any road improvements such as paving, drainage improvements, or other such improvements that are requested by the public that are not currently planned or budgeted by the County may also be financed by the creation of a special improvement district. Creation of the special assessment district or special improvement district shall be subject to statutory requirements, including N.M.S.A. 1978, §§ 67-4-20 through 67-4-24 (as amended) and N.M.S.A. 1978, §§ 3-33-1 through 3-33-43 (as amended).

## **SECTION IV: ROUTINE ADMINISTRATION OF THE ROAD NETWORK**

- 1. Report and Resolution Presentation.** On an annual basis, the Foreman of the Road Department shall present a report to the Board of County Commissioners in a publicly held Commission meeting for its consideration and approval which certifies to the Secretary of the New Mexico Department of Transportation the total mileage, names, route and, location of public roads maintained by Torrance County, pursuant to N.M.S.A., Section 67-3-28.3 (Supp. 1995). As part of the presentation, the Road Department Foreman will report to the Commissioners the total miles of County-maintained roads in the network, any additions and/or deletions and estimated maintenance cost of the network.

Also on an annual basis, the Road Department Foreman shall present a resolution to the Board of County Commissioners for its consideration and approval which authorizes the submission of an application to the New Mexico Department of Transportation for assistance from the Local Government Road Fund to perform necessary repair of and construction of roads in Torrance County, authorizing the expenditure of matching funds for categories of the Local Government Road Fund (i.e., CAP, CO-OP, and School Bus Routes) and recommend projects on which the funds may be used.

### **2. Establishing Speed Limits.**

- A.** The speed limit on all County Maintained Roads shall be 35 mph, unless otherwise posted.
- B.** Speed limits on roads in Torrance County may be changed, modified or altered pursuant to statutory provisions set forth in § 66-7-303 NMSA 2008. The procedure for changing or altering a speed limit on a County Maintained Road shall be as follows:
  1. If the Torrance County Board of County Commissioners determines that the speed limit on any specific road, or portion of a road is greater or less than is reasonable or safe under the conditions existing at that time, it will request an engineering survey and traffic investigation on the same. Said engineering survey and traffic investigation shall be on a form approved by the Secretary of the New Mexico Department of Transportation.
  2. The Torrance County Board of County Commissioners shall submit its request for change in speed limit, together with the engineering survey and traffic investigation, to the New Mexico Department of Transportation.
  3. If the Commission, after the engineering survey and traffic investigation is completed decides to change or alter the speed limit, the alteration of the speed limit, as approved by the New Mexico Department of Transportation shall be effective when appropriate signs that conform to the specifications adopted by the New Mexico Department of Transportation, giving notice

thereof, are erected along that particular part of said County Maintained Road(s).

4. No speed limit in Torrance County, on any road, shall be declared to be greater than 75 miles per hour.
5. Changes of speed limits in construction zones shall be authorized pursuant to § 66-7-303 and § 66-7-304 NMSA 2008.

**3. Temporary Road Closures.** Any road closure of five days or less for an emergency or temporary basis may be approved by the Road Foreman with the ratification by the Board of County Commissioners at its next Commission meeting. All road closures for more than five days in length must be approved by the Board of County Commissioners. The Torrance County Road Department shall use best efforts to maintain ingress and egress on all County Maintained Roads, during temporary road closures.

**4. Acquisition of Water for County Maintained Road Maintenance.** From time to time, it may be necessary for Torrance County to obtain water from property owners/entities to use while making repairs and/or otherwise workings on County Maintained Roads. When, at the discretion of the Road Foreman, it is not feasible to drive back to one of the County water access facilities and load the trucks with water, the County Road Foreman shall negotiate and enter into a contract with private property owners/water rights owners, for the acquisition of water.

## **SECTION V. MANAGEMENT AND ADMINISTRATION OF ROAD NETWORK**

**1. General Provisions.** Since there are limited funds available for road work each fiscal year, the County must carefully review the requirements and costs of manpower, equipment, and materials for road work currently being performed and the contractual or legal obligations requiring road work during the upcoming fiscal year before workable and practical decisions can be made in regard to additional requests for road work.

**2. Obstructions and Injuries to Road.** Under NMSA 67-7-1 through 67-7-2, no person may in any manner obstruct or damage any County Maintained Road. Specifically, New Mexico law prohibits any person from placing on any County Maintained Road a gate, fence, stone, timber, trees or any other obstruction. Additionally, New Mexico law prohibits any person from damaging any County Maintained Road, including any culverts, cattle guards, signs, sign posts or bridges.

Any building, structure, vehicle, tree, plant or anything else that is situated, placed, left, installed or otherwise located within a Torrance County Maintained Road Easement can be removed, at any time, without notice, by the Torrance County Road Department. Torrance County shall not be required to reimburse any owner, property owner, resident or anyone else for damages, costs or expenses, or be liable in any other way, for the County's actions in removing any structure or item that is placed, left, constructed or is otherwise in Torrance County Maintained Road Easement. Any said structure or item within a County Maintained Road Easement can be removed at any time, without notice, by the County Road Department.

Private parties or organizations shall not perform any type of construction or other activity such as, but not limited to, utility installation, or constructing a driveway/road intersection without first applying for and securing authorization from the Torrance County Road Department, thereafter complying fully with all provisions and standards set forth in the authorization.

4. **Cattle Guards.** Cattle guards may only be installed on a County Maintained Road if, they are installed by the County Maintained Road Department or under the direct supervision of the Road Foreman. Any person desiring to have a cattle guard installed must complete an application for cattle guard, Attachment A hereto, which is available at the Road Department. The application must be submitted and the administrative fee must be paid before the application will be presented to the Road Foreman for approval. Land owners are responsible for repairing any and all cattle guards that they have requested be installed. No repairs can be performed without County approval which, is to be obtained through the Road Foreman. It is hereby declared and established by the Torrance County Commission that damaged or broken cattle guards may present a hazard to the motoring public and, if the landowner fails to make said repairs, the County Maintained Road Department may repair said cattle guards and bill the owner of the property for the same. Any bill not paid may be subject to a lien filed by the County for the work. The County Road Department will be responsible for cleaning out of cattle guards on County Maintained Roads. The Road Foreman will need to schedule this work according to other road work.

**No** cattle guards will be permitted on County Maintained Roads that do not meet the Road Department's minimum specifications. **No** maintenance of cattle guards on County Maintained Roads will be permitted unless first authorized (see Authorization Form, Attachment A) by the Torrance County Road Foreman. All maintenance must be fully inspected by the Torrance County Road Department after completion.

5. **Culverts.** Culvert permits must be obtained from the Torrance County Road Department. Any person who desires to have a culvert installed must complete an application, a copy of which is attached as Attachment B, and pay the administrative fee. Culvert permits may be approved by the Road Foreman. Permits will be presented to the Torrance County Road Foreman for approval. Torrance County does not sell culverts. Torrance County Road Department will install culverts or pipes that are on a County Maintained Road and have been approved by the Torrance County Foreman. Current schedule fees govern the cost of installation.

Culverts will be provided by the County only on New Mexico Department of Transportation projects or designated County projects approved by the Torrance County Commission. Culverts shall have a minimum diameter of twelve inches (12"). Once installed they become the property of the landowner and their responsibility. The landowners are responsible to maintain their culverts and, specifically, clean the culverts as and when necessary. All landowners must understand that weeds, debris, tumbleweeds and other matter collect in bar ditches

at culverts. It is the landowners' responsibility to clean said culvert before they become clogged. If landowner fails to keep the culverts clean and the County is required to clean the culverts or remove debris from the culvert to allow water to flow in the ditch, then the County will invoice the landowner for the cost of the same. If the invoice is not paid, landowner may be subject to a lien filed by the County for the same.

Torrance County bar ditches will be cleaned out by the Torrance County Road Department. The County reserves the right to remove culverts if determined to be a hazard.

If the County is at fault for damage to a culvert during maintenance of a County Maintained Road, the County will replace the culvert at no cost to the landowner. Any cost for repair of normal damage to the culvert will be the landowner's responsibility.

## **SECTION VI: AGREEMENT REQUIRED FOR EXCHANGE OF BENEFITS FOR ROAD WORK**

- 1. County Work on Privately Owned Property.** The County shall not perform work or perform any services on privately owned roads or property.
- 2. Excavating, Cross Cuts or Other Cuts on County Maintained Roads.** No entity, third-party, governmental body, individual Franchisee, utility, whether public or private, or other entity shall do any excavating, cross cutting, digging, trenching or any other work on or across a County Maintained Road without first contacting the Torrance County Road Foreman, completing and submitting the appropriate application, together with any and all application fees, to perform such work. In the event of an actual emergency, the application may be approved by the concurrence of the Torrance County Road Foreman and the Torrance County Manager, but only after all of the appropriate paperwork has been approved and the application fees paid. A copy of said Cross Cut Application is attached as Attachment C hereto.
- 3. Work on County Maintained Roads by Private Parties.** Private parties shall not perform any Road Construction work (such as plowing, disking, ripping, rebuilding, etc.) on County Maintained Roads except as may be specifically authorized by the County Commission in a written agreement. Private parties may enter into an agreement with the County to perform certain work and/or provide improvement on County Maintained Roads when such an agreement would be in the best interest of the citizens of Torrance County and provide an improvement on an existing County Maintained Road. No work shall be formed until and unless the landowner has completed and submitted to the County Road Foreman. Only upon approval by the Board of Torrance County Commissioners, shall said individual be authorized to work on County Maintained Roads or County Property. Said form shall contain the following provisions:

- A. Liability.** The private party agrees to assume all liability and be responsible for any actions that may result from any injury or damage that may occur while road work is being performed by the private party and shall hold the County harmless from any claims for personal injury or property damage occurring during such road work. The private party shall be required to provide appropriate insurance coverage including bodily injury and property damage naming the County as an additional insured. Such liability and responsibility shall remain from the time that the work is commenced until it is completed and approved as acceptable by the Torrance County Road Foreman. Nothing contained herein shall be construed as waiving any of the protections afforded the County pursuant to the New Mexico Tort Claims Act, NMSA §41-4-1 et. seq.
- B. Transfer of Title.** The private party agrees to transfer title to all improvements installed on the County Maintained Road or property, such as material, cattle guards, culverts or other items, to Torrance County after said items and property have been installed and accepted by the Torrance County Road Foreman.
- C. Notification of County.** The private party agrees to notify the Torrance County Road Foreman, prior to the start of the work, of the location of the proposed work, the type of proposed work, and the date that said work will start.
- D. Minimum Standards.** The private party agrees that any road work performed on County Maintained Roads shall meet the minimum standards to satisfy the County for such improvements.

It shall be the duty and responsibility of the Road Foreman to insure that each agreement strictly complies with the provisions contained above and to inspect the work as it is ongoing to determine that the agreement is being fulfilled. No private party shall perform any work on any County Maintained Road until a written agreement has been completed unless the County Road Foreman, or his representative designated by the County Commission, shall determine that an emergency situation exists requiring immediate action. In an emergency situation, the County Road Foreman may verbally authorize the work under the terms and conditions set forth in this section. A written agreement must be prepared within five days of the verbal authorization and be signed by the County Road Foreman and the County Manager and submitted to the Board of County Commissioners for ratification at the next scheduled County Commission meeting.

- E. Mowing of grass in right of way, pushing snow, and etc.** This is not included as “work on County Roads by private parties”. The policies listed in Section VI., (1), (2) and (3) are meant to keep destructive acts from happening on County Maintained Roads. This is not meant to deter the general public from good faith efforts to clear County Maintained Roads of weeds, snow or etc.



4. **Donations of Privately Owned Materials.** Nothing contained in this section of the Torrance County Road Policy shall prohibit or in any way restrict the donation of road materials (caliche, gravel, water, etc.) to the County when such donation is free of charge and involves no expense to the County other than transporting the materials to the road site for use. The County of Torrance specifically recognizes in this policy that the farmers and ranchers of Torrance County have throughout the history of Torrance County provided materials to the County for use in maintenance and construction of roads, often at no charge to the County. Such donations by these citizens have proven to be an invaluable aid to the County in its attempts to construct and maintain a viable road system and is hereby specifically encouraged as a benefit to the citizens of Torrance County in that it saves expenditures of funds and man hours. An agreement must be signed by the County and the landowner for the donation.

## **SECTION VII: MISCELLANEOUS PROVISIONS**

1. **Administrative Fees.** In order to defray and/or offset a portion of the cost and/or expenses of the administration of private versus public construction and/or installation requests, the Board of County Commissioners has established procedures that require an application for permit and payment of an administrative fee. The administrative fee for this policy shall be established at \$50.00 per person, per application and can be changed, altered or amended by the County Commission as it deems fit.
  
2. **Pavement, Gravel, Culverts, Weed Control, Traffic Signs/Pavement Striping and Street Lighting.** The County may pave, gravel, install culverts, install cattle guards, perform weed control, install signs, stripe and install street lighting on any County Maintained Road or public right-of-way at its discretion. In addition, upon citizen request, the County may perform any of the above on a County Maintained Road if it is determined to be necessary and is in the best interest of the County. Any requested improvements will be prioritized based on need and will be contingent upon available funding, manpower and equipment.
  - A. **Pavement.** Currently paved roads will be maintained at that level including asphalt patching and resurfacing when determined to be necessary by the County.
  
  - B. **Gravel.** Currently graveled roads will be maintained at that level including routine quarterly blading and dust control when determined to be necessary by the County.
  
  - C. **Blading.** Under normal conditions, Torrance County will not blade any back slopes from October 1 of any year through April 1 of the following year. Exceptions to this general policy may be allowed if the road is under construction or rebuilding is being done on said road.

In addition, with the approval (or supervision) from the Road Foreman, Road employees may blade the front slopes (or shoulder) of County Maintained Roads in order to establish water flow down the ditch. In areas where ditches are full of blow sand, again, with the approval (or supervision) of the Road Foreman, Road employees may clean the ditch in order to reestablish a ditch line capable of keeping rain water off of the roadway. In sandy areas, any blading will only be done with adequate moisture to compact the material on the roadway.

- D. Culverts.** Culverts will be installed in such a manner as to align with the historic or established drainage. However, this does not imply that Torrance County is responsible to maintain the drainage channel beyond the limits of the right-of-way easement. Only in the event it is determined that such maintenance of the drainage channel would directly benefit the County and the County has received permission and indemnification from the property owners would the County consider performing work.
- E. Weed Control.** The County may use herbicides and mowing as part of its weed management program. The use of herbicides and mowing on County Maintained Road rights-of-way will be at the discretion of the Torrance County Road Department Foreman.
1. **Herbicides.** --- Herbicides may be used to inhibit and/or prevent weed, shrub and tree growth on County Maintained Road rights-of-way. Herbicides may also be used in an effort to control noxious weeds on County Maintained Road rights-of-way. The County can, at the discretion of the Road Foreman, control noxious weeds on County and/or private property (with landowner's permission) if it is determined to be in the best interest of the County or should any noxious weed acts may be enacted within this State. The County will attempt to perform this service at no charge to landowners, as well as provide reasonable notice to residents
  2. **Mowing.** ---Mowing will be done on County Maintained Roads when weed growth obstructs the visibility of traffic and/or pedestrian ingress and egress.
- F. Traffic Signs/Pavement Striping.** The placement of all traffic signs and pavement striping will be performed in compliance with the Manual on Uniform Traffic Control Devices (MUTCD). Materials shall be in accordance with requirements of ASTM standards, FHWA specification FP-96, and Federal Register Volume 48, No. 200, 10/14/83. Speed limits will be established based on State laws.

# CATTLE GUARD PERMIT

Date of Application: \_\_\_\_\_

I, the undersigned, do hereby make application to the Torrance County Road Department of Torrance County, NM, to place a Cattle Guard under or along Torrance Road \_\_\_\_\_.

Work will be done on Torrance Road \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.

Description of Location: \_\_\_\_\_

Person or persons who will own said Cattle Guard once installed \_\_\_\_\_

Cattle Guard will be at location and footing prepared on or by \_\_\_\_\_.

***Applicant's Responsibilities:***

1. That Cattle Guard will be a minimum width of 24 feet, or wide enough to reach from shoulder to shoulder on said road. The applicant will purchase their own cattle guard; Torrance County does not sell/provide them.
2. The applicant will prepare a concrete footing for cattle guard, prior to the installation.
3. The applicant agrees to protect, indemnify, defend and hold Torrance County harmless, including attorney fees, from any injury or damage caused to a third party or third parties by the maintenance of said cattle guard thereof, or the lack of maintenance thereof..
4. Torrance County reserves the right to relocate, modify, alter or reroute County Maintained Roadways, and applicant shall be solely responsible for any and all costs or expenses necessary to relocate or move Applicants cattle guard.
5. The applicant is responsible for maintenance of cattle guards, and all damages to cattle guard must to be repaired by Applicant.
6. An inspection/processing fee of \$50.00 must accompany this application.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Applicants Printed Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
Phone number

The above application was presented for consideration by the Torrance County Road Foreman of Torrance County, New Mexico this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Said application was granted upon the terms and conditions therein stated.

ATTEST:

\_\_\_\_\_  
Road Foreman

\_\_\_\_\_  
Road Administrator

[Attachment A]

# CULVERT APPLICATION/PERMIT

Date of Application: \_\_\_\_\_

I, the undersigned, do hereby make application to the Torrance County Road Department of Torrance County, NM, to place a Culvert under or along Torrance Road \_\_\_\_\_.

Work will be done on Torrance Road \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.

Description of Location: \_\_\_\_\_

Person or persons who will own said culvert once installed \_\_\_\_\_

Culvert will be at location, ready for installation on or by \_\_\_\_\_.

### ***Applicant's Responsibilities:***

1. That Culvert pipe will be no smaller than 24 inches in diameter.
2. The applicant will purchase their own culvert; Torrance County does not sell/provide them.
3. The applicant agrees to protect, indemnify, defend and hold Torrance County harmless, including attorney fees, from any injury or damage caused to a third party or third parties by the maintenance of said culvert thereof, or the lack of maintenance thereof..
4. Torrance County reserves the right to relocate, modify, alter or reroute County Roadways, and applicant shall be solely responsible for any and all costs or expenses necessary to relocate or move Applicants culvert.
5. The applicant is responsible for maintenance and cleaning of culverts, and all damages to culverts need to be repaired by Applicant.
6. An inspection/processing fee of \$25.00 must accompany this application.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Applicants Printed Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State ZIP

\_\_\_\_\_  
Phone number

The above application was presented for consideration by the Torrance County Road Foreman of Torrance County, New Mexico this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Said application was granted upon the terms and conditions therein stated.

ATTEST:

\_\_\_\_\_  
Road Foreman

\_\_\_\_\_  
Road Administrator

# APPLICATION FOR WORK, EXCAVATING, BORING, CROSS CUTS OR OTHER CUTS ON COUNTY ROADS

Date of Application: \_\_\_\_\_

I, the undersigned, do hereby make application to the Torrance County Road Department of Torrance County, NM, to perform the following work on, under or along Torrance Road \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_.

Describe Project: \_\_\_\_\_  
\_\_\_\_\_

Person or Persons who perform said work: \_\_\_\_\_  
\_\_\_\_\_

Person or Persons who will own the property placed under, across or along any County Maintained Road:  
\_\_\_\_\_  
\_\_\_\_\_

Work will begin on or about \_\_\_\_\_ and will require approximately \_\_\_\_\_ days to complete.

**A separate application is required for each and every separate boring, cross cut, or other cut on County Maintained Roads, for any work on portions of County Maintained Roads other than described above, and any separate work on any County intersection.**

## ***Applicant's Responsibilities:***

- 1) To place said \_\_\_\_\_ at least 36" below clean bar ditches.
- 2) To have in place comprehensive general liability insurance which covers this project and that they have caused Torrance County to be named as an additional insured for the purposes of this project, and that further, they agree to protect, indemnify, defend and hold Torrance County harmless, including attorney fees, from any injury or damage caused to a third party or third parties by the work described above.
- 3) The application agrees to furnish appropriate traffic control/warning devices to protect the traveling public and workmen while work is taking place within the public Right-of-Way. Applicant further agrees to locate and protect any and all other existing utilities in the area of the project.

- 4) The application further agrees to return the road surface to its original condition after the above work has been completed, or to reimburse the Torrance County Road Department within thirty (30) days for its work in bringing the road surface back to original condition. Applicant further warrants said repairs and agree to repair or replace any defects which appear in said repair for a period of twelve (12) months following completion of said roadway repair.
- 5) The application shall notify the Torrance County Road Foreman of emergency work undertaken prior to County authorization no later than the next regularly scheduled workday during normal working hours.
- 6) The applicant shall notify the Road Department no less than one (1) regular working day prior to any construction or work within the County Right-of-Way and upon completion of construction.
- 7) Torrance County reserves the right to relocate, modify, alter or reroute County Maintained Roadways, and applicant shall be solely responsible for any and all costs or expenses necessary to relocate or move applicant's pipes/lines.
- 8) An fee of \$75.00 must accompany this application.

Signature of Applicant		
Applicants Printed Name		
Mailing Address		
City	State	ZIP
Phone number		

The above application was presented for consideration by the Torrance County Road Foreman of Torrance County, New Mexico this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. Said application was granted upon the terms and conditions therein stated.

ATTEST:

\_\_\_\_\_  
Road Foreman

\_\_\_\_\_  
Road Administrator