

**SOCORRO COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION Nº 2012-77  
PLACEMENT OF A PRIVATE GATE OR CATTLEGUARD ACROSS A COUNTY  
ROAD POLICY**

**RECITALS**

**WHEREAS**, pursuant to NMSA 1978 Section 4-38-1 (1884) the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners; and,

**WHEREAS**, NMSA 1978, Section 4-38-13 (1953) provides that board of county commissioners shall have power at any session to make such orders concerning the property belonging to the county as they may deem expedient; and,

**WHEREAS**, NMSA 1978 ,Section 4-37-1 *et seq.* provides that counties may adopt those resolutions and ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 62-2-1 (1905) declares that “[a]ll roads and highways, except private roads, established in pursuance of any law of New Mexico, and roads dedicated to public use, that have not been vacated or abandoned, and such other roads as are recognized and maintained by the corporate authorities of any county in New Mexico, are hereby declared to be public highways;” and,

**WHEREAS**, NMSA 1978, Section 62-2-2 (1905) requires that “[a]ll public highways, except such as are owned and operated by private corporations, and highways within the corporate limits of any incorporated city or town, shall be maintained and kept in repair by the respective counties in which they are located;” and,

**WHEREAS**, NMSA 1978, Section 67-7-10 (1921) states that “[i]t shall be unlawful to maintain any fence across any public road unless the owner or person in control of such fence shall construct and maintain in good condition a gate and a cattle-guard passageway for motor vehicles in accordance with the specifications of the authorities having control of such road. And no fence shall be maintained across any public road without a written permit from the authorities having control of such road” and further provides that a violation of this sections is punishable as a misdemeanor.

**NOW THEREFORE BE IT RESOLVED THAT**, the following Placement of a Private Gate or Cattleguard Across a County Road Policy is hereby adopted.

APPROVED, ADOPTED, AND PASSED on this 24<sup>th</sup> day of July, 2012.


BOARD OF COUNTY COMMISSIONERS

Absent  
DANIEL P. MONETTE, CHAIRMAN

  
PAULINE JARAMILLO, VICE-CHAIR

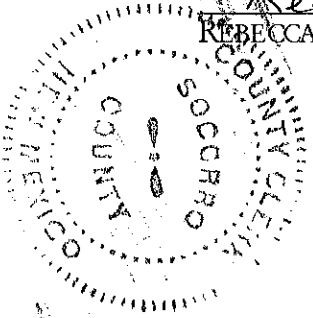
  
PHILLIP ANAYA

  
RUMALDO J. GRIEGO

  
JUAN JOSE GUTIERREZ

ATTEST BY:

  
REBECCA (BECKY) VEGA, COUNTY CLERK



PLACEMENT OF A PRIVATE GATE OR CATTLEGUARD  
ACROSS A COUNTY ROAD POLICY

I. PURPOSE

The purpose of this policy is to establish uniform requirements for the placement of a private a gate or cattle guard across a Socorro County Road in order to meet the needs of the County's rural residents while protecting the safety and convenience of the motoring public.

II. ELIGIBLE PERSONS

A private individual is only eligible apply to construct a private gate or cattleguard across a County Road if that person is the landowner, landowner's representative or has written permission of the landowner of the parcel of land that the road traverses.

III. TRAFFIC REQUIREMENT

A private individual may construct a gate or cattleguard across a County Road with permission of the County only if it is determined by the Road Superintendent that less than 10 motor vehicles utilize the applicable portion of the road on an average day (excluding the applicants use). If more than 10 motor vehicles utilize the road on a daily basis a private individual will be required to construct a cattleguard rather than a gate across the road.

IV. SPECIFICATIONS

A. GATES:

1. The width of a gate shall be a minimum of 2 feet wider, on either side, than the County Road.
2. Gates shall conform to the minimum requirements of a legal fence as described by NMSA 1978, Sections 7-16-1 *Et. Seq.*
2. Gates shall be constructed to be easily opened and closed by motorists.
3. Warning signs shall be placed approximately 300 feet from and plainly visible to persons approaching the gate.
4. A reflective signage or tape shall be placed on both sides of the gate.
5. Gates MAY NOT BE LOCKED

B. CATTLEGUARDS

1. The width of a gate shall be a minimum of 2 feet wider, on either side, than the County Road.
  2. The construction of cattle guards shall be in accordance with USDA NRCS Special Construction Specification CS-104 (2005). (A copy of the specifications may be obtained from the County Road Department).
  3. Warning signs shall be placed approximately 300 feet from and plainly visible to persons approaching the cattleguard.
  4. A gate conforming to the minimum requirements of a legal fence as described by NMSA 1978, Sections 7-16-1 *Et. Seq.* shall be erected adjacent to the cattleguard.
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#### V. MAINTENANCE

The person who applied for permission to erect the gate or cattleguard shall maintain the cattle guard and gateway, unless the permit is otherwise assigned.

#### VI. REMOVAL

The County Road Superintendent has the authority to cause a cattleguard or gate across any County Road to be removed if it is not kept in repair, is not built to the standards described herein or if in the judgment of the Road Superintendent it becomes necessary to remove the cattle guard or gate for the purpose of improving the Road or to protect the public. If the Road Superintendent determines that the cattle guard or gate should be removed, written notice by certified mail must be sent to the permit holder or occupant of the enclosure, notifying the him/her to effect such removal within 30 days from the date of mailing. If the notice is not complied with, the Road Superintendent upon expiration of the period is authorized to remove or destroy the cattle guard or gate. This provision does not preclude the Road Superintendent from taking immediate action if he/she determines that the danger posed by the gate or cattleguard is a clear present and immediate danger to the public.

#### VII. APPROVAL.

The Road Superintendent shall approve, deny or conditionally approve the request to place a gate or a cattleguard across a County road within 30 days of receipt of the application. If the Road Superintendent fails to approve the application within 30 days, the application is deemed to be denied. Applications shall be on the form attached as Exhibit "A" to this policy.

#### VIII. APPEAL

Any person aggrieved the decision of the Road Superintendent may file an appeal of the decision to the Board of County Commissioners within 15 days of the date of the decisions.

Exhibit "A"  
APPLICATION TO PLACE A PRIVATE GATE OR CATTLE GUARD ACROSS A COUNTY ROAD  
AND PERMIT FOR THE SAME

\_\_\_\_\_  
Applicant Name (please print)

Request Approval for placement of a gate     Request approval for placement of a cattleguard

The gate or cattle guard is to be placed on County Road: \_\_\_\_\_

Describe the exact location of the proposed gate or cattle guard: \_\_\_\_\_

\_\_\_\_\_ (please mark on map and attach if necessary)

The estimated number of vehicles utilizing the Road in one day are: \_\_\_\_\_

Please provide evidence of the ownership of the adjacent real property or provide written permission from the landowner(s) and attach to this application.

If Applicable: Describe the type of gate to be constructed and the materials to be used: \_\_\_\_\_

Applicant agrees to indemnify and hold harmless the County for any claim or liability of any kind whatsoever, which arises out of the use of this permit. Applicant and agrees to adequately mark the project and notify the public using the affected roadway of work in progress. The Applicant further agrees to put of barriers and warning devices and to light the work in progress so as to warn the public using the affected roadway of any danger.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

***ROAD SUPERINTENDENT USE ONLY***

Approved-     Denied     Approved with Conditions

Describe Conditions for placement (if applicable) or Reason for Denial: \_\_\_\_\_

\_\_\_\_\_  
Road Superintendent

\_\_\_\_\_  
Date