



**SANDOVAL COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 8-19-13.8A**

**AN AMENDMENT TO THE SANDOVAL COUNTY CODE
ARTICLE II, SECTION 32-23.**

WHEREAS, on June 17th the Board of County Commissioners approved an amendment to Article II Section 32-19 through 32-24; and,

WHEREAS, a critical provision was inadvertently omitted from the final approved ordinance; and,

WHEREAS, this amendment corrects the omission.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANDOVAL COUNTY, NEW MEXICO that Article II Section 32-23 immediately following paragraph 5e with the following language:

“Public or private roads that have been previously included in the county road maintenance inventory, may be deemed to be eligible for county maintenance provided that right-of-way requirements have been met and road maintenance has not been discontinued for a period of more than 18 months.”

APPROVED and ADOPTED by the Board of County Commissioners, Sandoval County this 19th day of August 2021.



APPROVED AS TO FORM ONLY:

Michael Eshleman

Michael Eshleman, County Attorney

BOARD OF COUNTY COMMISSIONERS

David Heil

David Heil, Chair

Michael Meek

Michael Meek, Vice Chair

Katherine Bruch

Katherine Bruch, District 1

Jay C. Block

Jay C. Block, District 2

F. Kenneth Eichwald

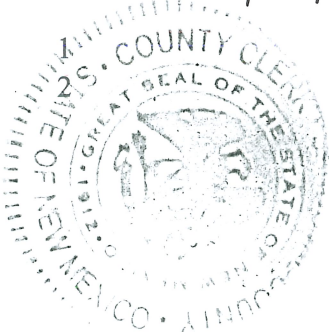
F. Kenneth Eichwald, District 3

ATTEST:

Anne Brady-Romero FR

Anne Brady-Romero, County Clerk

Date: 8/19/2021





**SANDOVAL COUNTY
BOARD OF COUNTY COMMISSIONERS
ORDINANCE NO. 6-17-21.9**

**AN ORDINANCE REPEALING AND REPLACING THE COUNTY ROAD
ORDINANCE ARTICLE II SECTIONS 32-19 THROUGH 32-24 OF THE SANDOVAL
COUNTY CODE**

WHEREAS, Sandoval County maintains road for public use throughout the county; and,

WHEREAS, it is Sandoval County's goal and objective is to provide open and safe travel for the public on public roads; and,

WHEREAS, Sandoval County covers a large area with diverse terrain and roads that require different categories and levels of road maintenance to provide safe access to the public; and,

WHEREAS, Sandoval County roads serve a variety of purposes both public and private; and,

WHEREAS, there are many private roads within Sandoval County that the County cannot legally maintain or improve using public monies; and,

WHEREAS, it is only legally permissible for Sandoval County to maintain a privately-held road if the road is deemed to serve a public purpose and landowners have granted Sandoval County a permanent right-of-way; and,

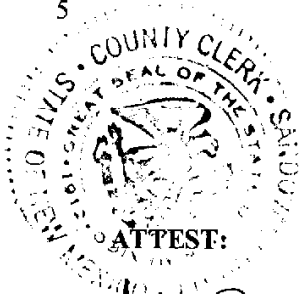
WHEREAS, Sandoval County strives to clearly define the requirements for granting Sandoval County a public right-of-way for the purposes of including roads in Sandoval County's road-maintenance inventory, and clarify other aspects of the Sandoval County Road Ordinance; and,

WHEREAS, in order to effectively maintain Sandoval County roads; better utilize limited public dollars; and communicate to the public the level of maintenance that can be expected on a given road; Sandoval County seeks to create a system of maintenance tiers or maintenance levels (ML's) that can be assigned to each County-maintained road.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY

COMMISSIONERS OF SANDOVAL COUNTY, NEW MEXICO that Article II Sections 32-19 through 32-24 of the Sandoval County Code are hereby repealed and replaced with Article II sections 32-19 through 32-24 as attached in Exhibit A.

1 **APPROVED and ADOPTED** by the Board of County Commissioners, Sandoval County, this
2 17th day of June 2021.
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Anne Brady-Romero FR
Anne Brady-Romero, County Clerk

APPROVED AS TO FORM:

[Signature]
Robin S. Hammer,
County Attorney

**BOARD OF COUNTY COMMISSIONERS
OF SANDOVAL COUNTY**

[Signature]
David J. Heil, Chairman

/s/ MICHAEL MECK
Michael Meek, Vice Chairman

/s/ KATHERINE BRUCH
Katherine Bruch, District 1

[Signature]
Jay Block, District 2

[Signature]
F. Kenneth Eichwald, District 5

ARTICLE I. IN GENERAL

Secs. 32-1—32-18. Reserved.

ARTICLE II. COUNTY ROADS

Sec. 32-19. Statement of purpose.

The purpose of this article is to establish and define responsibilities and standards for road dedication to the county and acceptance of roads by the county for maintenance and the use of public property and rights-of-way regarding excavations and restorations thereof.

(Ord. No. 7-14-11.7A, § 2, 7-14-2011)

Sec. 32-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person required by this article to apply for a permit to make a road cut.

Bore drilling means that the applicant is boring underneath the existing road and will not be affecting either the subbase on said road or the road surface on said road. Boring and receiving pits should be identified work in the application, complete with dimensions and areas of ground disturbance.

County facilities project means any road cut undertaken as a part of a project initiated by the county and includes related action taken by the utility company to further the county facilities project.

Easement means the legal right to use another's land for specific, limited purpose.

Emergency means any situation or condition existing in which there is an interruption or disruption of gas, electric, water, or telecommunications service to one or more customers being served by a utility company, or any situation or condition in which there is a danger of serious bodily injury, serious property damage, or prolonged disruption of service.

Engineer means a person authorized to practice professional engineering in the state.

Excavation means the act of making a hole, trench, or ditch which penetrates through or under the surface in a public right-of-way or other public property, resulting in the removal of dirt, asphalt or other material.

Facilities means and includes, but is not limited to, plants, works, systems, improvements and equipment of the utility company such as pipes, electric substances, mains, conduits, transformers, wires, cables, poles, underground links and meters.

Joint trenching means where one or more utility companies have joined to install facilities in a common trench.

Longitudinal means a cut that is placed lengthwise in its dimension.

Maintenance Level means the degree of maintenance performed based on a roads classification, design, traffic and surface condition upon acceptance or reclassification.

Permit means the written form provided by the county in which a person describes the road cut which will be performed on public property and in which are contained any special conditions required of the person by the county in the execution of the work.

Permittee means a person that has received a road cut permit from the county. This person/entity will be held responsible for all work described in the application and permit requirements.

Person means any individual, estate, trust, receiver, cooperative association, club, corporation, utility company, firm, partnership, joint venture, syndicate or other entity.

Plat, Final. Means a formal graphic presentation of subdivided land with survey reference ties to permanent survey monuments, is prepared by a registered land surveyor and is prepared in a suitable manner for filing of record.

Public facility means any designed, engineered or constructed road structures or engineered drainage facilities owned or maintained by the county located on public rights-of-way.

Public right-of-way Means land deeded, reserved, or dedicated by plat, or otherwise acquired by any unit of government for the purposes of moving vehicular and non-vehicular traffic and/or for conveyance of public utility services or drainage.

Director of Public Works- means the person employed by the county who is designated by the board of county commissioners to hold this position and/or his designee.

Reclamation means returning disturbed soils and vegetation back to the original state prior to disturbance.

Road means the asphalted/graveled area and the utilization of county right-of-way.

Road cut means:

- (1) The act of cutting a hole, trench, ditch or tunnel in, on, under, or through the surface of a public facility; or
- (2) The act of drilling, boring or tunneling under or jacking up the surface of a public right-of-way.

Road use means any activity in or adjacent to the roadway (including easement) that affects traffic and pedestrian flow.

Transverse means a cut that lies across the road.

Utility company means any person, entity, or corporation which provides water, sewer, electric, gas, telephone, or cable television.

Sec. 32-21. Penalty.

Any person violating the provisions of this article shall, upon conviction, be punished by a fine of up to \$300.00 per day per site for each day of violation.

Sec. 32-22. Standard specifications for road construction.

All roads within a subdivision will be constructed as specified in this section or in accordance with chapter 34, *Subdivisions*. Public roadways within an approved subdivision must be dedicated to the county following the procedures outlined in either section 34-74(d) or 34-214(d). If the board of county commissioners accepts such roadways for dedication, such acceptance must be clearly indicated on the recorded plat of the subdivision. Upon full conformity with the road construction standards within this article as well as sections 34-146 and 34-194, the subdivision can request the roads be accepted for maintenance by the county per section 32-33.

- (1) *Public Right-of-way.* The right-of-way must be a minimum of 50 feet in width (25 feet each side of centerline). Depending on the site conditions and use of the road, the county may, at its discretion, require more or less right-of-way than specified herein.
- (2) *Trees and brush.* For safety purposes, all trees, brush and any landscaping not approved by public works shall be removed from the right-of-way.
- (3) *Utilities.*

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- a. All utilities must have a cover of 36 inches below the lowest point of the road cross section, except high-pressure gas lines, must have a cover of 48 inches below the lowest point of the road cross section. High pressure lines shall be clearly marked with appropriate warning signs where the line intersects the right-of-way. All utility facilities parallel to a county road and associated manholes, junction boxes, meters or other above grade apparatus shall be installed within five feet of the right-of-way line. Minor variations will be considered on an individual basis. In no event shall the installation be within such proximity to the traveled portion of the roadway as to interfere with off-road parking or road maintenance. Above-grade apparatus must be clearly marked with a delineated warning marker acceptable to public works. All at-grade valve or manholes located in the road's driving surface or shoulder must be protected with an at-grade, two-foot by two-foot by six-inch concrete collar.
 - b. Irrigation systems and ditch crossings within the right-of-way must be bridged or piped and cased under the entire right-of-way. Piped road crossings shall be installed a minimum of 24 inches below the lowest point of the road cross section or with sufficient cover to withstand 20-ton truck traffic. Open ditches carrying irrigation waters shall be placed outside of the right-of-way. Borrow ditches shall not be used for irrigation or tail waters.
- (4) *Drainage.* Positive site drainage away from the roadway will be provided utilizing historic or established drainage channels or storm drains. Unless otherwise provided for or approved, maintenance of drainage easements outside the right-of-way that crosses private property will not be provided by the county. All drainage structures or drainage plans will be approved by the county engineer.
 - (5) *Grades.* Roads grades shall not exceed eight percent.
 - (6) *Intersections.* Roads shall be laid out as to intersect as nearly as possible at right angles. No road shall intersect any other road at an angle of less than 70 degrees.
 - (7) *Road construction.*
 - a. *Paved Section-* before beginning preparation of the subgrade, all sod and other vegetation shall be removed from the road bed. Construction of the road will be in accordance to plans approved by the county engineer but the minimum required will be 12 inches of subgrade, six inches of base course and three inches depth of asphalt surface. The driving surface shall be 24 feet wide with five foot shoulders on each side. Side drainage ditches will be constructed as approved by the county engineer.
 - b. *Gravel Section-* before beginning preparation of the subgrade, all sod and other vegetation shall be removed from the road bed. Construction of the road will be in accordance to plans approved by the county engineer but the minimum required will be 12 inches depth of subgrade preparation, six inches depth of base course. The driving surface shall be 24 feet wide with five foot shoulders on each side. Side drainage ditches will be constructed as approved by the county engineer.
 - (8) *Compliance with design and specifications and testing.* It shall be the responsibility of the developer or applicant to retain the services of a state-registered professional licensed engineer qualified and equipped to perform the overall construction inspection, materials testing and compaction tests required. The developer, applicant or engineer must notify the Director of Public Works or representative of the name of the engineer or engineering company prior to construction. The developer, applicant must contact the Director of Public Works or representative at the start of each phase of road construction, i.e., clearing and grubbing, compaction, and driving surface. Upon completion of construction of the roads, a detailed report, in a format approved by public works, shall be submitted to the Director of Public Works or representative. A state-registered professional licensed engineer shall certify that sound construction practices were used, that all necessary testing was performed and that all specifications are in compliance.
 - (9) *Requests for acceptance of dedicated roads for county maintenance.* After the one-year warranty period, the developer or owner's engineer will certify that there were no issues with the road

construction and drainage structures through an application process (section 32-23). At the applicant's request to Public Works, the request shall be presented to the board of county commissioners for their consideration and possible approval to be added to the road maintenance inventory list. Individual roads within the subdivision may be considered for county maintenance if all requirements are met. However, this phased-in approach will require a separate report and application for each road.

Sec. 32-23. Dedication, Classification, Maintenance Level and Acceptance of roads.

In order for a road, whether private or public, to be maintained by the county, road must be located within dedicated Right of Way and must be constructed with the minimum requirements as outlined in this Ordinance. Once those steps are completed, the county then may accept the road(s) in order to be placed on the County's road maintenance list ("list"). Public Works keeps the official list but only the board of County Commissioners can officially remove or add any road to the list. The following is the process to apply for consideration of acceptance onto the list.

- (1) For public roads within a subdivision, a road's acceptance must be submitted, accompanied by:
 - a. A recorded final plat showing dedication of right of way to the county for the proposed roads;
 - b. Provide the certification from developer/owner's Engineer on sound construction standards where followed in the construction of the road(s) and all road standards were met.
- (2) For roads that were not dedicated as part of the subdivision plat (private roads) the process to be accepted onto the list requires the dedication of public right of way and the classification of the road (Section 32-23(3)). An application for road dedication must be submitted, accompanied by:
 - a. A petition regarding intent to dedicate the road to the county and at what classification level as requested by the owners, signed by all property owners that abut the private road;
 - b. Documentation that all of the signers of the petition are the legal owners of record for the properties which may include the most recent deeds
 - c. A final plat that shows the proposed dedicated public right-of-way (as defined in 32-22(1) for the road(s). If all the owners of property(s) that abut the private road or legally entitled to use the private road, sign the plat that (2)(a) and (b) do not apply;
 - d. The existing road(s) shall meet the minimum design and construction standards determined by the County at the time of application. This includes, but not limited to, standards established by the Department of Public Works and the Standard Specifications for Highway and Bridge Construction of the New Mexico Department of Transportation based on road classification or re-classification and maintenance level requested by the property owners with the application.

Alternatively, if the road does not meet applicable standards for the classification/reclassification at the time of application, the creation of a Public Improvement District ("PID") can be used to finance the work necessary to bring the road up to standards, as described in County Ordinance Chapter 30, or Tax Incentive Districts ("TIDs"), County Assessment Districts.

- (3) Maintenance Classification of Roads.-
 - a. County Maintained Road.-- A road designated as a County Maintained Road is a road which has been accepted for full County maintenance. Each County Maintained Road is assigned a number or name. Maintenance services on County Maintained Roads may include routine maintenance, snow removal, dust control, installation or replacement of base course, chip seal, asphalt, concrete or other paving, installation or repair of drainage structures, pot-hole repair, bridge construction and repair, signage, and periodic resurfacing and is contingent on adequate funding and the limitations of manpower, weather and equipment. County maintained roads have a maintenance level of 5

b. Lesser County-Maintained Road. -- A Lesser County- Maintained Road is a road which has been accepted for limited County Maintenance. Each Lesser County- Maintained Road shall be designated a maintenance level. Services on an unpaved Lesser County-Maintained Road shall be limited to a Maintenance level designation. Lesser maintained roads will have a maintenance level 3-4

c. Non-County-Maintained -- roads with right-of-way dedicated to the county, but have not been accepted for road maintenance. These roads shall not be maintained by the County except in an emergency constituting an immediate threat to the public health, safety, welfare, or property. Non-county maintained shall have a maintenance level of 1 or 2?

d. Private roads -- shall not be maintained by the county unless a recorded written agreement wherein the County is fully reimbursed for the costs of the work. Private roads shall have a maintenance level based upon the agreement.

(4) Maintenance Levels of Roads

a. Maintenance Level 1 (ML1) means a road that is closed to the public and/or vehicles shall be classified as a non-county maintained and/or private road.

b. Maintenance Level 2 (ML2) means a road that is for high clearance vehicles and shall be classified as a non-county maintained road as defined in Section 32-23 (3)

c. Maintenance Level 3 (ML3) means a single or double lane road with a native surface or a gravel surface with no shoulder and little or no drainage structure with low traffic, no traffic. Level (3) shall be bladed at least once per year but no more than twice per year. Maximum posted speed on level three shall be 25 miles per hour unless otherwise posted.

d. Maintenance level 4 (ML4) means a single or double lane road with a gravel or other road surface material with shoulder and adequate drainage structure. Level four (4) shall be maintained as needed to maintain the road structure and drainage. Maximum posted speed on a level four road shall be 35 mile per hour unless otherwise posted

e. Maintenance level 5 (ML5) means is a double lane road with a paved or chip sealed surface with lane striping with adequate drainage structure, and has a higher volume of traffic and are arterial or collector roads. Level five (5) shall be maintained as needed to maintain the road structure and drainage. Maximum posted speed on a level five road shall be 45 mile per hour unless otherwise posted.

(5) Once a complete application submittal is made to Public Works along with all the required documentation, the following will occur;

a. An inspection will be done to determine if the existing road meets the specified road standards as per section 32-22 and can be designated as County Maintained Road or as a Lesser County Maintained road per section 32-23.3 whichever is requested by the owner(s). If the road does not meet requirements of the standards for the classifications requested, improvements to the road to meet the standards must be completed before the application will proceed.

b. Depending on the need for improvements to meet the classification, a scope of improvements and construction plan may be necessary from owner/developer. Written notification and comments will be submitted to the owners on the improvements that are needed for the classification level requested. The creation of a Public Improvement District can be used to finance the work necessary to bring the road up to standards, as described in County Ordinance Chapter 30.

c. Upon completion of all requirements, a detailed report, in a format approved by Public Works, signed and stamped by a state-registered professional licensed engineer, shall be submitted to the Public Works Director or designee, the report shall certify that sound construction practice were used and that all requirements have been met.

d. After receiving the certification of improvements being completed, a one (1) year warranty period shall start, upon completion of the warranty period, public works shall inspect to ensure that the improvements have withstood the warranty period.

e. Upon completion of the all requirement by the owners and at their request, public works shall submit to the Board of Commission for approval to add the road(s) to the county road maintenance inventory.

Sec. 32-24. Excavation/Road Cut permit application.

- (a) Every person desiring to make a road cut or utilize county right-of-way must obtain a permit from the county, and must be licensed and bonded, or must be a utility company. The person shall make written application on forms provided and approved by the Public Works director prior to the performance of any road cut work or activity within the public right-of-way.
- (b) No person shall make any road cut in public right of way until the person or designated agent obtains an appropriate permit from the county, except in an emergency. In the event of an emergency, the person may proceed with such activity immediately. An application must be filed within two business days. The application must state the description of the emergency and a summary of the repairs. The applicant must comply with any reasonable repair directions set forth by the county. The emergency work must be conducted in a manner that will not adversely affect the road condition or cause undue hardship to the residents of said location of work.
- (c) Submittals must include a site map of the proposed road cut that indicates exact path of cut.
- (d) Submittal must include prework photos. Post work photos must be submitted in order to close out work permit. A permit will be considered "out of compliance" if post photos are not submitted.
- (e) Evidence must be presented that insurance requirements have been met in accordance with section 32-27, except for county agencies.
- (f) Contractors working for area utility companies must be on an authorized list provided by such utility company or evidence must be presented that any tie-in or extension of utilities is authorized. This includes, but is not limited to, sewer, gas, water, electric or communications. The authorization must be from the applicable utility company, provider or utility association that services will be provided to the extension or tie-in.
- (g) A utility company may file its application for a road cut permit and all supporting information through the use of a telecopy machine located in the county public works department, in accordance with procedures established by the Director of Public Works.. An approved permit may be sent to the applicant in accordance with similar procedures. The Director of Public Works, in his discretion, may allow a person to be billed for fees due and payable under the terms of this article on a monthly basis, provided the account is not more than 60 days delinquent in payments due under this article. No further permits will be issued if payments are more than 60 days delinquent.
- (h) When a utility company applies for a permit that borders or is within tribal lands, the site will have to be reviewed for county jurisdiction on a case by case basis.