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March 12, 2012, 8:30 am

March 14, 2012

Agenda

5:00 p.m. **Public Hearing Meeting**  
Valencia County Commission Chambers  
444 Luna Avenue  
Los Lunas, NM 87031

Board of County Commissioners

Donald E Holliday, Chair District V  
Georgia Otero-Kirkham, Vice-Chair District II  
Mary Andersen District I  
Lawrence R. Romero District III  
Ron Gentry District IV

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda

**SWEARING IN OF PARTICIPANTS**

A handwritten signature in black ink, reading "Donald E. Holliday".

**PUBLIC HEARING ITEM(S):**

- 4) Consideration of Ordinance 2012-\_\_\_ Restricting Through Truck Traffic on South Rio Del Oro Road, East of Manzano Expressway to Valencia High School in Valencia County – Commissioner Gentry
- 5) Consideration of Ordinance 2012-\_\_\_ Restricting Through Truck Traffic on North Rio Del Oro Road, East of Manzano Expressway to Valencia High School in Valencia County – Commissioner Holliday

**PUBLIC COMMENT:**

*Please sign up on the sheet located just outside the Commission Chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission.*

**EXECUTIVE SESSION:**

Pursuant to Section 10-15 1 (H) (2) (7) & (8), the following matters may be discussed in closed session: a. personnel **County Manager; Finance Director; Public Works Director**; b. pending or threatened litigation c. real property; d. other specific limited topics that are allowed or authorized under the stated statute.

- ◆ Motion and roll call vote to go into Executive Session for the stated reasons
- ◆ Board meets in closed session
- ◆ Motion and vote to go back into regular session
- ◆ Summary of items discussed in closed session
- ◆ Motion and roll call vote that matters discussed in closed session were limited to those specified in motion for closure, and that no final action was taken, pursuant to the authority in §10-15-1 NMSA 1978.

**ACTION ITEMS FROM EXECUTIVE SESSION:**

- 6) Consideration of:
  - a) County Manager
  - b) Finance Director
  - c) Public Works Director

**NEXT COMMISSION MEETING:**

♦ **March 21, 2012- Business Meeting @ 9:30A.M.**  
Valencia County Commission Board Room 444 Luna Ave. LL, NM

**ADJOURN:**

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*If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.*

**Please Silence All Electronic Devices – Thank You!**

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# **VALENCIA COUNTY, NEW MEXICO**

**POST OFFICE BOX 1119**

**444 LUNA AVENUE**

**LOS LUNAS, NEW MEXICO 87031**



## **VALENCIA COUNTY ORDINANCE**

**ORDINANCE 2012-\_\_\_\_**

### **An Ordinance**

**Restricting Through Truck Traffic on South Rio del Oro Road, East  
of Manzano Expressway to Valencia High School**

**in Valencia County**

**Adopted by the Board of County Commissioners**

On \_\_\_\_\_

Effective on \_\_\_\_\_

**ORDINANCE No. 2012-\_\_\_\_\_**

**ORDINANCE RESTRICTING THROUGH TRUCK TRAFFIC ON  
SOUTH RIO DEL ORO ROAD, EAST OF MANZANO EXPRESSWAY  
TO VALENCIA HIGH SCHOOL IN VALENCIA COUNTY**

**PREAMBLE**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt 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**, the Board of County Commissioners of the County of Valencia has determined that the health, safety and general welfare of the residents of Valencia County would best be served by the adoption of an Ordinance restricting through truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County.

**NOW THEREFORE, BE IT ORDAINED** that the Board of County Commissioners of the County of Valencia adopts an Ordinance restricting through truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County, as follows:

**ARTICLE I. FINDINGS AND INTENT.**

The Board of County Commissioners of Valencia County finds that truck traffic on South Rio Del Oro Road, east of Manzano Expressway to Valencia High School in Valencia County poses a significant risk to the health and safety of inhabitants of Valencia County. The Board of County Commissioners of Valencia County further finds that the truck traffic along this road constitutes a nuisance, producing vibrations, dust, and inflicts substantial damage upon the road. The Board of County Commissioners of Valencia County further finds that this Ordinance is remedial in nature, and designed to protect occupants of Valencia County. The Board of County Commissioners of Valencia County further finds this Ordinance to be the most narrowly tailored means of furthering compelling governmental interests. This Ordinance conforms to the Opinion entered by the New Mexico Court of Appeals on May 18, 2006, in *American Civil Liberties Union of New Mexico and John Does 1-4 v. City of Albuquerque*, 2006-NMCA-078, 139 N.M. 761, 137 P.3d 1215.

## ARTICLE II. SHORT TITLE.

This Ordinance shall be referred to as the "South Rio Del Oro Road Truck Traffic Restriction Ordinance."

## ARTICLE III. DEFINITIONS.

For the purposes of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTHORIZED EMERGENCY VEHICLE** means any fire department vehicle, police vehicle, ambulance and any emergency vehicles operated by the State of New Mexico, a municipality or County or operated by a public utility.

**GROSS VEHICLE WEIGHT** means the weight of a vehicle inclusive of any load.

**SCHOOL BUS** means any motor vehicle operating under the authority of a Board of Education or private or parochial school interests that is used to transport children, students or teachers to or from schools or to and from any school activity, but not including any 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 pupils;

(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 pupils; or

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

**TRUCK** means every motor vehicle designed, used or maintained primarily for the transportation of property.

**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.

**SOLID WASTE TRUCK** means any vehicle specifically designed to collect and transport solid waste or recyclables.

## ARTICLE IV. GENERAL PROVISION AND OFFENSE.

### *Restricted Traffic.*

A. Trucks and Truck Trailers, with a gross vehicle weight of five (5) tons or more, are prohibited from using South Rio Del Oro Road, east of Manzano Expressway to Valencia High School.

B. This Ordinance shall not apply to travel of a solid waste truck or truck trailer which is delivering to a local resident.

C. This Ordinance shall not apply to authorized emergency vehicles, government or utility vehicles, service and transportation vehicles, and school buses.

#### **ARTICLE V. OBLIGATIONS OF VALENCIA COUNTY**

A. The Valencia County Public Works Department shall forward a copy of this Ordinance to the New Mexico State Motor Transportation Division of the Department of Public Safety.

B. The Valencia County Public Works Department shall install weight limitation signs appropriately and conspicuously on the affected portion of South Río Del Oro Road.

#### **ARTICLE VI. ENFORCEMENT.**

*Enforcing Entity.* The Valencia County Sheriff's Department (hereafter, "Sheriff's Department") or any duly authorized and commissioned law enforcement officer shall enforce the provisions of this Ordinance.

#### **ARTICLE VII. IMMUNITY.**

Nothing in this Ordinance creates a cause of action against the Board of County Commissioners of the County of Valencia not already authorized under existing law. Without limitation, the Board of County Commissioners of the County of Valencia is not liable to any person harmed who claims that enforcement of this Ordinance may have prevented the harm.

#### **ARTICLE VIII. PENALTY.**

Any person who violates any provision of this Ordinance shall, upon conviction, be subject to a fine not exceeding \$300 or by imprisonment not exceeding 90 days or both. The Board of County Commissioners of the County of Valencia is also entitled to injunctive relief to enforce the provisions of this Ordinance.

#### **ARTICLE IX. SAVINGS CLAUSE.**

If any article, section paragraph, clause, word or phrase of this Ordinance is held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

**PASSED, APPROVED AND ADOPTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**BOARD OF COMMISSIONERS OF VALENCIA COUNTY**

\_\_\_\_\_  
Donald E. Holliday  
Chair, District V

\_\_\_\_\_  
Georgia Otero-Kirkham  
Vice-Chair, District II

\_\_\_\_\_  
Mary J. Andersen  
Commissioner, District I

\_\_\_\_\_  
Lawrence R. Romero  
Commissioner, District III

\_\_\_\_\_  
Ron Gentry  
Commissioner, District IV

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Adren R. Nance, County Attorney

**ATTEST BY:**

\_\_\_\_\_  
Sally Perea, County Clerk

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**APPROVED AS TO FORM:**

**ATTEST BY:**

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Adren R. Nance, County Attorney

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Sally Perea, County Clerk