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Peggy Carabajal, County Clerk, Valencia County New Mexico

VALENCIA COUNTY, NEW MEXICO

POST OFFICE BOX 1119

444 LUNA AVENUE

LOS LUNAS, NEW MEXICO 87031



VALENCIA COUNTY ORDINANCE

ORDINANCE 2020-01

An Ordinance

Restricting Truck Traffic on Don Felipe Road

Adopted by the Board of County Commissioners

On March 18, 2020

Effective on April 26, 2020



ORDINANCE No. 2020-01

ORDINANCE RESTRICTING THROUGH TRUCK TRAFFIC ON DON FELIPE ROAD

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 Don Felipe Road.

NOW THEREFORE, BE IT ORDAINED that the Board of County Commissioners of the County of Valencia adopts an Ordinance restricting through truck traffic on Don Felipe Road, as follows:

ARTICLE I. FINDINGS AND INTENT.

The Board of County Commissioners of Valencia County finds that truck traffic on Don Felipe Road poses a significant risk to the health and safety of inhabitants of Valencia County, and in particular has caused damage to the recent paving of the road. 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.

ARTICLE II. SHORT TITLE.

This Ordinance shall be referred to as the "Don Felipe Truck Traffic Restriction Ordinance."

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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 Don Felipe Road without a permit.

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.

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ARTICLE V. PERMITTING PROCESS.

- A. Any person may apply to the County Planning and Zoning Department ("the Department") for a permit providing for an appropriate exemption for the above-prohibited trucks and trailers, subject to the Type A application procedure set forth in § 154.075. Any such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary by the Department. The permit shall be carried on all permitted vehicles, and shall be open to inspection by any code enforcement officer or duly authorized and commissioned law enforcement officer.
- B. To obtain a permit, an applicant must submit a permit application to the Department, which shall include all information required by the Department, and not limited to vehicle identification and owner/operators, vehicle weights, local weights, materials carried, route to be followed to the site, duration of activity (beginning date and end date), frequency of trips and times of operation. The applicant shall pay a permit fee to be established by the Board of County Commissioners, but in no event shall the fee be less than \$50.
- C. The Department may require the applicant to submit documentation (including, but not limited to photographs and videos of the condition of the roads, shoulders, and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic as a condition of the permit so that the Department may make a determination as to any restrictions that may reasonably need to be imposed.
- D. If, upon review by the Department, a violation of any condition imposed in granting the permit is found, the Department shall inform the applicant by registered letter and first-class mail of the violation and require compliance within 30 days. If the permittee does not achieve compliance within 30 days of the mailing of the letter, the permit may be revoked at the discretion of the Department.

ARTICLE VI. 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 Don Felipe Road.

ARTICLE VII. 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.

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ARTICLE VIII. 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.

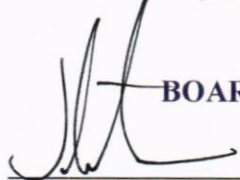
ARTICLE IX. PENALTY.

Any person who operates a truck and/or truck trailer, with a gross vehicle weight of five (5) tons or more, over Don Felipe Road without a permit in violation 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 X. 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 18th day of March, 2020.

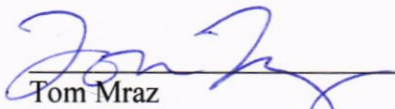


Jhonathan Aragon, Chair
District V

BOARD OF COMMISSIONERS OF VALENCIA COUNTY



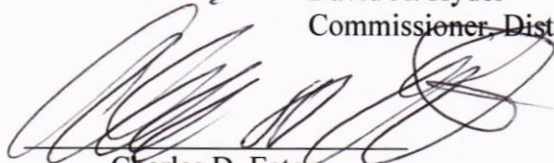
Gerard Saiz, Vice-Chair
District I



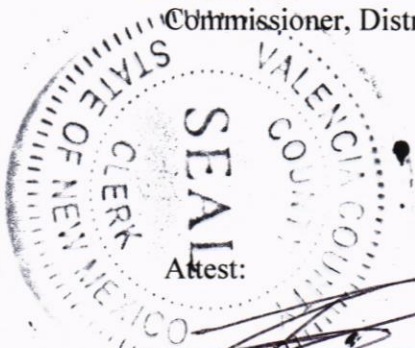
Tom Mraz
Commissioner, District II



David A. Hyder
Commissioner, District III



Charles D. Eaton
Commissioner, District IV



Peggy Carabajal
Valencia County Clerk

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