

Valencia County, New Mexico
Post Office Box 1119
444 Luna Avenue
Los Lunas, New Mexico 87031

VALENCIA COUNTY

**AN ORDINANCE ESTABLISHING AN EMERGENCY GRADING POLICY FOR
PRIVATE AND NON-COUNTY PUBLIC ROADS**

PASSED: SEPT. 17, 2025

EFFECTIVE: SEPT. 17, 2025

2025-04

VALENCIA COUNTY ORDINANCE NO. []
AN ORDINANCE ESTABLISHING AN EMERGENCY GRADING POLICY FOR
PRIVATE AND NON-COUNTY PUBLIC ROADS

Recitals

WHEREAS, the Board of County Commissioners of Valencia County has a duty to protect the health, safety, and welfare of its residents, particularly during emergencies; and

WHEREAS, private and non-county public roads within Valencia County are not part of the County's accepted road maintenance system and therefore are not regularly maintained by the County; and

WHEREAS, during floods, fires, severe weather, or other emergencies, such roads may become impassable, preventing access by emergency responders or evacuation by residents; and

WHEREAS, between September 5 and 7, 2025, Valencia County experienced historic and severe flooding that rendered numerous private and non-county public roads impassable, isolating residents in their homes and preventing access by emergency responders; and

WHEREAS, the Board of County Commissioners finds that the inability to promptly restore temporary access in such circumstances constitutes an immediate threat to the public peace, health, and safety; and

WHEREAS, in order to safeguard the lives and welfare of residents, emergency grading authority must be implemented without delay;

WHEREAS, the inability to access affected areas can delay lifesaving emergency response, medical transport, or the delivery of essential supplies; and

WHEREAS, the Board finds it necessary to authorize the County, in its discretion, to perform temporary emergency grading to restore access, provided that adequate safeguards are in place to ensure accountability and limit liability; and

WHEREAS, requiring both the property owner (or institutional requester) and the Fire Chief or designee to execute an affidavit ensures that emergency grading is performed only when professionally validated as necessary for public safety;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Valencia County, New Mexico, as follows:

Section 1. Authority.

This Ordinance authorizes Valencia County, in its discretion, to perform emergency grading on private or non-county public roads where conditions present an immediate threat to life, property, or essential services.

Section 2. Grounds for Emergency Grading.

Emergency grading may be considered under the following circumstances:

- (A) Emergency response access is impeded for fire, law enforcement, or emergency medical services.
- (B) Unsafe road conditions prevent residents from evacuating during an emergency order or imminent threat.
- (C) Urgent medical transport, potable water, or food delivery for sick or indigent persons is prevented.
- (D) Grading is necessary to ensure continuation of state or federal emergency relief operations.

Section 3. Limitations.

- (A) Emergency grading shall be limited to blade grading and dirt necessary to restore temporary passability.
- (B) Emergency grading is subject to equipment availability, personnel safety, and competing emergency demands.

Section 4. Affidavit of Request and Consent.

- (A) Prior to performing emergency grading, the requesting party shall execute an Affidavit of Request and Consent in the form attached as Appendix 1.
- (B) The affidavit shall also be executed by the Fire Chief of the appropriate Fire District, or a duly authorized designee, certifying that the condition of the road presents an immediate risk to public safety or emergency response.
- (C) The affidavit shall:
 - 1. Document the nature of the emergency;
 - 2. Grant permission for County entry;
 - 3. Hold the County harmless from liability; and
 - 4. Acknowledge that no ongoing duty to maintain is created.

Section 5. Discretion.

The decision to perform emergency grading rests solely within the discretion of Valencia County. Nothing in this Ordinance shall be construed to create a duty to maintain any road not accepted into the County road system.

Section 6. Severability.

If any section, subsection, or clause of this Ordinance is declared invalid, such invalidity shall not affect the remaining provisions, which shall continue in full force and effect.

Section 7. Effective Date.

Pursuant to NMSA 1978, Section 4-37-9(B), ordinances ordinarily take effect thirty (30) days after adoption. However, in accordance with Subsection (C) of that statute, the Board of County Commissioners hereby declares that it is necessary for the public peace, health, and safety that this Ordinance take effect immediately upon passage.

This declaration is based on the extraordinary flooding that occurred in the County between September 5 and 7, 2025, which left residents stranded in their homes and delayed emergency access. Accordingly, this Ordinance shall take effect immediately upon its recording in the ordinance book kept by the County Clerk and authentication by the Clerk's signature.

ADOPTED, APPROVED AND ORDAINED on this 17th day of SEPTEMBER 2025.

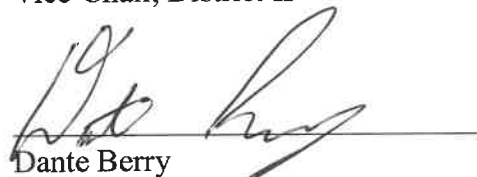
BOARD OF COUNTY COMMISSIONERS

A handwritten signature in black ink, appearing to read 'Gerard Saiz', written over a horizontal line.

Gerard Saiz
Chairman, District I

A handwritten signature in blue ink, appearing to read 'Troy Richardson', written over a horizontal line.

Troy Richardson
Vice-Chair, District II

A handwritten signature in black ink, appearing to read 'Dante Berry', written over a horizontal line.

Dante Berry
Commissioner, District V

A handwritten signature in black ink, appearing to read 'Joseph Bizzell', written over a horizontal line.

Joseph Bizzell
Commissioner, District IV

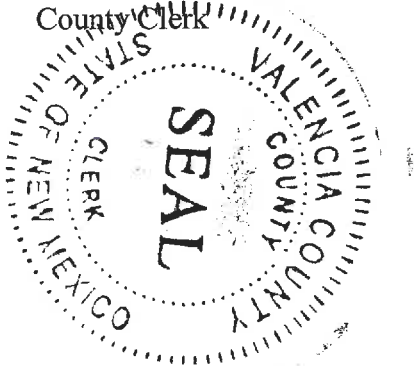


Morris Sparkman
Commissioner, District III

Attest by:



Michael Milam
County Clerk



Appendix I

VALENCIA COUNTY PUBLIC WORKS DEPARTMENT

POST OFFICE BOX 1119

444 LUNA AVENUE

LOS LUNAS, NEW MEXICO 87031

(505) 866-2475



AFFIDAVIT IN SUPPORT OF EMERGENCY GRADE

I, [name], being duly sworn, state that:

1. I am the owner/occupant/representative of property located at:

_____.

2. I request that Valencia County perform emergency grading on the following road:

_____.

3. The road condition presents an immediate risk to health, safety, or welfare because (check all that apply):

☐ Emergency responders cannot reasonably access the property.

☐ Residents cannot safely evacuate.

☐ Access is required for urgent medical/food/water delivery.

☐ Other: _____.

4. I consent to entry by County equipment and personnel for emergency grading.

5. I understand the County will not provide materials and is not assuming an ongoing duty to maintain the road.

6. I agree to hold Valencia County harmless from all loss, damage, and injury, including court costs and attorney fees, resulting from emergency courtesy grade.

7. Further affiant sayeth naught.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Sworn _____

[name]

[address]

STATE OF NEW MEXICO

COUNTY OF VALENCIA

Subscribed and sworn to before me on this ____th day of [date], by [name].

SEAL

Notary Public

My commission expires:

Appendix II

VALENCIA COUNTY PUBLIC WORKS DEPARTMENT

POST OFFICE BOX 1119

444 LUNA AVENUE

LOS LUNAS, NEW MEXICO 87031

(505) 866-2475



AFFIDAVIT BY FIRE CHIEF IN SUPPORT OF EMERGENCY GRADE

I, _____, the Fire Chief (or duly authorized designee) of
_____ Fire Department, have reviewed the request above and certify that:

1. I have inspected or am otherwise familiar with the condition of the road identified above.
2. In my professional judgment, the road condition presents an immediate risk to life,
property, or emergency response access.
3. Emergency grading by Valencia County is reasonably necessary to protect public safety.

Fire Chief/Designee Signature: _____

Printed Name/Title: _____

Date: _____

**STATE OF NEW MEXICO
COUNTY OF VALENCIA**

This instrument was acknowledged before me on this ____ day of _____, 20, by
_____ (Fire Chief or designee).

Notary Public

My Commission Expires: _____