

**FREMONT COUNTY POLICY REGARDING CATTLE GUARDS
INSTALLATION, MAINTENANCE, and FEES
FREMONT COUNTY DEPARTMENT OF TRANSPORTATION**

1. As used in this policy, *Person* includes any individual, business, governmental entity or corporation. A person who is not a landowner, must demonstrate authority to act on behalf of the landowner prior to entering into any agreement or receiving any services from the County.
2. Any person in the County who wishes to have a cattle guard installed on any County road shall apply for a permit for installation of a cattle guard on forms to be provided by the Fremont County Department of Transportation (FCDOT).
3. The request for a cattle guard shall be reviewed on a case by case basis. No person shall be entitled to installation of a cattle guard in a county road. In determining whether to install a cattle guard, the FCDOT shall consider the circumstances at the requested cattle guard site, including but not limited to number and location of other existing cattle guards, convenience of location for future county maintenance, weather and wind conditions at the site, condition of relevant fencing and other appropriate factors. The determination of the Fremont County Department of Transportation regarding the request for installation of a cattle guard shall be indicated in writing and shall be the final determination of the County.
4. If the request for installation of a new cattle guard is approved, the Applicant shall either pay the full cost for materials for a cattle guard and base, or shall provide the guard and base. All cattle guards shall meet or exceed HS20 rating with concrete base. Additionally, the Applicant shall pay an installation fee of \$200.00 to FCDOT for the cost of installation of the guard and base. If a landowner is granted permission by FCDOT to install the cattle guard (as opposed to FCDOT installing the cattle guard), the installation fee shall be waived.
5. All work in the County Road to install a cattle guard shall be performed by FCDOT in accordance with FCDOT road specifications. No person shall be allowed to perform the work to install a cattle guard in a County Road, without written permission from FCDOT.
6. If all attending facts and circumstances justify the waiver of all or a portion of the cost of the cattle guard, base, and installation, the Applicant may apply to FCDOT or the Board of County Commissioners and request a waiver of all or a portion of the costs and fees. The decision of the Board of County Commissioners shall be a final decision. No waiver granted to any landowner shall constitute precedent or expectation of future waivers to other landowners. Each waiver request shall be considered based on the facts and circumstances in existence regarding the particular site for which the waiver was requested.
7. The County shall clean cattle guards, (removal of sand, dirt, silt and other debris which renders the cattle guard ineffective), on an “as needed” basis. In no event shall the County be required or responsible for more than one annual cleaning per cattle guard, except for cleaning or correction of a problem with the cattle guard when the cleaning/correction is caused by County

employees, agents, representatives. Each landowner who benefits from a cattle guard in a County Road shall be responsible for the cost of cleaning of the cattle guard if the cattle guard requires cleaning a second or subsequent time in any 12 month period. The cost of cleaning shall be \$200, due and payable in advance, at the time the landowner requests FCDOT cleaning. Normal maintenance shall be the responsibility of FCDOT.

8. The scope of work for cleaning a cattle guard shall not include cleaning or maintenance in the winter season. Normal winter road maintenance, combined with winter storm weather conditions (snow, freezing temperatures, wind) may result in a cattle guard being filled with snow, ice and debris from plowing snow-covered roads and other regular winter road maintenance. The County will not perform cleaning of cattle guards for snow, ice, road maintenance debris if the necessity for cleaning results from winter storm conditions and winter road maintenance, including snow-plowing. Landowners, ranchers and livestock owners are advised and cautioned not to depend or rely upon cattle guards to secure livestock away from County roads during winter weather conditions.

9. Any landowner requesting cleaning of a cattle guard shall make a written request and pay the cost before FCDOT cleans such cattle guard. All cleaning of the cattle guard shall be performed by FCDOT within a reasonable time frame after application is received. No person or entity shall be allowed to clean any cattle guard in a County Road, without written permission from FCDOT. It shall be the responsibility of any person who benefits from a cattle guard located in a County Road to notify the FCDOT of the need for repair or cleaning of a cattle guard.

10. In the event that any cattle guard located upon any County road is deemed by FCDOT to be beyond repair, the cattle guard shall be replaced or removed. If the cattle guard is removed, there will be no cost to the landowner. The cost of replacement of any existing cattle guard that met or exceeded an HS20 rating at the time of installation and is in present need of replacement shall be the responsibility of the landowner. Cattle guards in need of replacement that did not meet or exceed a HS20 rating at the time of installation shall be replaced at the expense of the County. If the damage to the cattle guard, regardless of whether it ever met or exceeded an HS20 rating, is directly caused by an identifiable event, act, or party, County will pursue the cost of replacement from the party or parties who are responsible for the damage.

11. Any person who performs work on a cattle guard in a County road, fails to provide notification of the need for repair, or fails to pay any costs for maintenance and repair, may be subject to the cattle guard being removed by the County. If FCDOT determines that the cattle guard should be removed, a notice stating the reason for removal and the date of removal shall be provided to the landowner. Said notice shall be given no less than 15 days prior to removal of the cattle guard. If the landowner disagrees with the determination to remove the cattle guard, the landowner shall make a written request for a hearing before the Board of County Commissioners, which shall be held within 20 days following receipt of the request. If a timely request for a hearing is made to the Board of County Commissioners, the cattle guard shall not be removed until after a hearing before the Board of County Commissioners and a final determination. Any decision of the Board of County Commissioners shall be final agency action, subject to judicial review in accordance with the Colorado Rules of Civil Procedure.

12. If a cattle guard is determined by FCDOT to be not longer useful, or unnecessary for its intended purpose, the County may remove the cattle guard. Prior to such removal, the County shall post a notice of intent to remove such cattle guard at the location of the cattle guard. The date for removal shall be no earlier than 6 months following the date the notice is posted. During the 6 month waiting period, persons or entities shall be entitled to submit comments or objections to such removal, which shall be considered by FCDOT prior to removal. If FCDOT determines that the nature of the comments and objections warrant holding a public hearing prior to making a final determination regarding removal, the hearing shall be scheduled on the agenda of the Board of County Commissioners. Notice of such public hearing shall be provided to all persons/entities who have commented on the proposed removal and shall be published in the official newspaper for Fremont County no less than 14 days prior to the date of such public hearing. The decision of the Board of County Commissioners shall be final agency action, subject to judicial review in accordance with the Colorado Rules of Civil Procedure.

13. No portion of this policy shall be deemed or considered to have vested any person or landowner with the right to a particular size of cattle guard. FCDOT, upon a determination that road improvement or widening is necessary, may require replacement of existing cattle guards. If the replacement of the cattle guard is due to development of lands, road safety concerns, upgrade and improvement of the roadway, or other similar circumstances not related to the agricultural utility of the cattle guard, the landowner or person who benefits from the use of the cattle guard shall not be responsible for the cost of replacement of the cattle guard.

14. All costs related to cattle guards in County Roads shall apply to existing cattle guards, together with any cattle guards installed after the effective date of this Policy.

15. The effective date of this policy shall be 10/26/2010.

