



Full Service Debris Removal Program

Debris Removal Right of Entry Permit

Instructions

1. **Complete** the Right of Entry Permit form. Be sure to fill the form out completely, including the insurance information if you have insurance.
2. **Sign** the Right of Entry Permit. The Permit must be signed by the landowner or authorized agent.
3. **Submit** the Right of Entry Permit, as described below.

Where to Submit

✓ In Person

Lincoln County: Lincoln County Planning Department – 109 Kansas City Rd., Ruidoso, NM 88345 or by email to khelton@lincolncountynm.gov or bventura@lincolncountynm.gov

✓ Electronic

Send completed and signed form to:

DHSEM-DCM@dhsem.nm.gov

E-Signature is now available! When submitting electronically, you must include a scan or picture of a government-issued photo ID for the property owner.

Right-of-Entry Permit for Household Hazardous Waste, Disaster Debris, and Hazard Tree Removal on Private Property

Name of Owner(s)/Agent: _____

Phone Number of Owner(s)/Agent: _____

Email of Owner(s)/Agent: _____

Property Address: _____

Assessor’s Parcel No. (APN): _____

I / we, _____, certify that I am / we are the owner(s), or authorized agent of the owner(s), of the real property located at the above address (hereinafter “Owner”). I hereby certify that I/we have full power and authority to execute this Right of Entry Permit (ROE) without the need for any further action, including, but not limited to, notice to or approval from any other party.

I / we hereby grant Lincoln County (“County”), as well as the State of New Mexico (“State”), and the United States Government, including their officers, employees, agencies, and independent contractors (collectively, the “Government”), a right to enter upon the real property specified above by address and Assessor's Parcel Number (hereafter the “Property”) and will guarantee access to the property for the activities selected below and described herein.

- Phase 1 Only** – Household Hazardous Waste Removal Program Only
- Phase 1 and 2** – Full Service Debris Removal Program

Provisions for Phase 1 Only

The below provisions are applicable only if “Phase 1 Only” is indicated above.

- 1. Purpose:** The Government is granted this ROE to inspect, cut, test, remove, clear and monitor wildfire-impacted household hazardous waste of whatever nature, including, but not limited to, burned batteries, paint cans, solar panels, propane tanks, fuels, chemicals, solvents, bulk asbestos, and burned electronics.
- 2. Time Period:** This ROE shall expire twelve (12) months after the date of the Owner’s signature(s), below; when the Household Hazardous Waste Removal Program described in Section 1 is completed, as determined in the sole discretion of the Government; or when the Owner submits an

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executed *Withdrawal Form* to the Disaster Recovery Center at 237 Service Road, Ruidoso, NM 88345 or DHSEM-DCM@dhsem.nm.gov, whichever occurs first.

- 3. Authorized Activities:** Owner hereby grants to the Government the right to determine, in the Government's sole discretion, which materials and items on the Property are considered household hazardous waste which will be removed as part of its Household Hazardous Waste Removal Program. Submission of this ROE authorizes the Government to remove wildfire-impacted household hazardous waste of whatever nature, including but not limited to, burned batteries, paint cans, solar panels, propane tanks, fuels, chemicals, solvents, bulk asbestos, and burned electronics. Owner's failure to remove disaster debris and hazard trees deemed outside of the Household Hazardous Waste Removal Program may later be deemed a public nuisance by local officials. Disaster debris and hazard trees deemed a public nuisance by public officials will have to be removed at the Owner's expense.
- 4. Release and Waiver of Liability:** Owner acknowledges that the Government's decisions about when, where, and how to provide wildfire-generated debris and hazard tree removal on Owner's property are discretionary functions. Owner hereby acknowledges that the Government is not liable for any claim based on the exercise or performance, or failure to exercise or perform, a discretionary function, and promises not to make such a claim. **Owner further releases the Government from all liability for any damage to property or bodily injury or death to persons on the property that may occur during or after the Household Hazardous Waste Removal Program.** Owner therefore waives any claims or legal action against the Government, in accordance with state and federal law, including the New Mexico All Hazard Emergency Management Act, and the Stafford Act, 42 U.S.C. § 5148. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.
- 5. Indemnification:** Owner agrees to indemnify and hold harmless the Government from any and all claims, damage, or losses arising out of the Household Hazardous Waste, Disaster Debris and Hazard Tree Removal on Private Property Program activities carried out pursuant to this ROE. This indemnification is required by state and federal law, including but not limited to the Stafford Act, 42 U.S.C. § 5173. Please also see Section 12, below.
- 6. Modification:** The provisions of this ROE may not be modified. Owner may cancel this ROE only by submitting an executed *Withdrawal Form* to the Disaster Recovery Center at 237 Service Road, Ruidoso, NM 88345, or DHSEM-DCM@dhsem.nm.gov (see below).

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7. **Fraudulent or Willful Misstatement of Fact:** An individual who fraudulently or willfully misstates any fact in connection with this ROE may be subject to penalties under state and federal law, including civil penalties, imprisonment for not more than five years, or both, as provided under 18 U.S.C. §1001.
8. **Inspection of Public Records Act:** Owner acknowledges that completed ROE forms may be subject to public disclosure under the New Mexico Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12. Other state and federal laws may apply. Pursuant to Section 14-2-1.1, the following protected personal identifiable information will be redacted: (1) all but the last four digits of a taxpayer identification number, financial account number, or driver’s license number; all but the year of a person’s date of birth; and a social security number.

Provisions for Phase 1 and 2

The below provisions are applicable only if “Phase 1 and 2” is indicated above.

1. **Purpose:** The Government is granted this ROE to inspect, cut, test, remove, clear and monitor wildfire-generated debris of whatever nature, including but not limited to, household hazardous waste, burned or partially burned structures, ash, concrete foundations, contaminated soil, vehicles, trailers, waste or other debris, and hazard trees from the Property (“Full-Service Removal Program”).
2. **Time Period:** This ROE shall expire eighteen (18) months after the date of the Owner’s signature(s), below; when the Household Hazardous Waste Removal Program described in Section 1 is completed, as determined in the sole discretion of the Government; or when the Owner submits an executed *Withdrawal Form* to the Disaster Recovery Center at 237 Service Road, Ruidoso, NM 88345, or DHSEM- DCM@dhsem.nm.gov (see below).
3. **Hazard Trees:** Hazard Trees are wildfire-damaged trees that are so damaged by the fires that their structural integrity is compromised and that pose an immediate threat of falling onto work crews or obstructing their access to the debris clearance site or falling onto a public right of way or public improved property. The Government has sole discretion to determine whether a tree is hazardous. The Full-Service Removal Program does not include the removal of tree stumps. The Government, at its sole discretion, may deem it necessary to remove non-fire-damaged trees to access and fell hazard trees, and to remove trees that pose a danger to or threaten work crews.
4. **Authorized Activities:** Owner hereby grants to the Government, the right to determine, in the Government’s sole discretion, which hazard trees, materials and items on the Property are eligible and will be removed as part of its Full-Service Removal Program. Submission of this ROE authorizes the Government to remove wildfire-generated debris of whatever nature including, but

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not limited to, burned or partially burned structures, ash, concrete foundations, contaminated soil, vehicles, trailers, waste, hazard trees or other debris from the Property. As part of the Full-Service Removal Program, Owner may not opt out of the removal of any particular type of wildfire-generated debris, such as foundations and hazard trees, that the Government determines must be removed. Owner's failure to remove items not eligible for Full-Service Program may later be deemed a public nuisance by local officials. Owner is responsible for removing, at Owner's expense, any items not removed under the Full-Service Removal Program which the owner wishes to be removed. Owner may withdraw from the entirety of the Full-Service Program by cancelling this ROE pursuant to Section 14. If Owner withdraws after work commences under the Full-Service Program, the Government may seek reimbursement for expenses incurred up to the point of withdrawal, consistent with Section 5 herein.

5. **Reimbursement:** Wildfire-generated debris and hazard tree removal under the Full-Service Program is provided at no direct cost to the Owner. However, the Owner agrees to file an insurance claim if Owner possesses homeowner's, automobile, or property insurance. Most homeowner's, property and dwelling insurance policies include coverage for disaster debris and hazard tree removal. State and federal law require Owner to assign any and **only** disaster debris and hazard tree removal insurance proceeds to the Government to avoid a duplication of benefits. Please see 42 U.S.C. § 5155; 44 CFR § 204.62. In consideration of the Government's agreement to remove wildfire-related debris and hazard trees under the Full-Service Removal Program, Owner agrees to inform their insurance company of this assignment and agrees to release their insurance information to the Government.

In the event the insurance company or companies issue insurance proceeds **specifically and only for** wildfire-generated debris and hazard tree removal or vehicle removal directly to Owner, then Owner shall promptly inform the County of the amount of such proceeds and remit **only** those insurance proceeds, not to exceed the actual cost of the applicable wildfire-generated debris and hazard tree removal.

6. **Property Sold Prior to Cleanup Certification:** Any property that is sold prior to issuance of the cleanup certification will be withdrawn from the program, unless both new and previous Owners sign a property transfer affidavit, and the new Owner fills out an ROE. Costs for work completed will be billed to the insurance company listed above, if applicable.
7. **Release and Waiver of Liability:** Owner acknowledges that the Government's decisions about when, where, and how to provide wildfire-generated debris and hazard tree removal on Owner's property are discretionary functions. Owner hereby acknowledges that the Government is not liable for any claim based on the exercise or performance, or failure to exercise or perform, a discretionary function, and promises not to make such a claim. **Owner further releases the Government from all liability for any damage to property or bodily injury or death to**

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persons on the property that may occur during or after the Full Service Debris Removal Program. Please also see sections 11 and 12, below. Owner therefore waives any claims or legal action against the Government, in accordance with state and federal law, including the New Mexico All Hazard Emergency Management Act, and the Stafford Act, 42 U.S.C. § 5148. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.

8. **Indemnification:** Owner agrees to indemnify and hold harmless the Government from any and all claims, damage, or losses arising out of the Household Hazardous Waste, Disaster Debris and Hazard Tree Removal on Private Property Program activities carried out pursuant to this ROE. This indemnification is required by state and federal law, including but not limited to the Stafford Act, 42 U.S.C. § 5173. Please also see Section 12, below.
9. **Foundations:** In order to participate in this program, Owner must allow removal of all foundations from the subject Property. Such removal measures are at the sole discretion of the Government. Stem walls and retaining walls may be left on a case-by-case basis, as approved by the State. Owner acknowledges and understands that the removal of a foundation may leave a depression in the ground, and that it is Owner's responsibility to fill any depression(s) following the removal of a foundation.
10. **Markings of Infrastructure Facilities:** Owner agrees to make their best efforts to mark subgrade utility lines (sewer, water, electricity, gas, cable, etc.), and to mark the location of septic tanks, leach fields, water wells, hand dug wells/cisterns, or other subgrade structures. Owner should carefully complete the attached *Property Information Form* and **append any maps, diagrams, or legible notes** that may be useful to the Government's contractor in locating subgrade structures and instructing the crews which items the Owner may want to remain on the Property following the Full Service Removal Program. The Government will endeavor to avoid all marked structures; however, **Owner acknowledges pursuant to Section 7, that they release the Government from any liability for damages to marked or unmarked structures.** Owner further acknowledges pursuant to Section 8 that they indemnify, hold and save harmless the Government from any claims or losses due to any damages to marked or unmarked structures. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§1346(b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment.
11. **Driveway, Roadway and Other Incidental Damage:** Multi-ton excavators must perform much of the demolition, consolidation and loading of fire debris into trucks for removal to appropriate

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recycling and disposal and end use sites. The scale and weight of this equipment, and the weight of loaded trucks hauling debris out of fire-damaged neighborhoods, often exceeds the design capacity of residential driveways, sidewalks, and roadways. Crews will take reasonable precautions to mitigate against damage. However, Owner acknowledges cracking and damage to asphalt and concrete pavement is a common and unavoidable consequence and is therefore considered incidental to the Full Service Removal Program. By signing this ROE and opting into the Government Full-Service Removal Program at this Property, the Owner acknowledges the risk of such incidental damage as well as their responsibility for the cost of any repairs to private property or jointly-owned private roadways that may be caused by Government contractors in the performance of Full Service Removal Program operations. Owner acknowledges pursuant to Section 8, they indemnify, hold and save harmless the Government from any repair claims described above, or any other incidental and unavoidable damage occurring as a result of routine operations associated with the Full-Service Removal Program.

12. **Damage to Improved Property:** Wildfire-generated debris and ash removal crews will attempt to minimize impacts to improved property that was not damaged by the fire. Owner may submit a complaint regarding any improved property that Owner believes was damaged during the Full Service Removal Program operations at the Disaster Recovery Center at 237 Service Road, Ruidoso, NM 88345 or DHSEM-DCM@dhsem.nm.gov. However, Owner acknowledges Section 7 of this ROE limits the liability of the Government with respect to such damage, if any.
13. **Erosion Control:** Owner acknowledges that erosion control measures may be necessary, such as wattles, compost socks, and hydro mulch, to stabilize soil on or about the Property. Such erosion control measures are at the sole discretion of the Government.
14. **Modification:** The provisions of this ROE may not be modified. Owner may cancel this ROE only by submitting an executed *Withdrawal Form* to the County at the Disaster Recovery Center at 237 Service Road, Ruidoso, NM 88345 or DHSEM-DCM@dhsem.nm.gov (see below).
15. **Fraudulent or Willful Misstatement of Fact:** An individual who fraudulently or willfully misstates any fact in connection with this ROE may be subject to penalties under state and federal law, including civil penalties, imprisonment for not more than five years, or both, as provided under 18 U.S.C. § 1001.
16. **Public Records Act:** Owner acknowledges that completed ROE forms may be subject to public disclosure under the New Mexico Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12. Other state and federal laws may apply. Pursuant to Section 14-2-1.1, the following protected personal identifiable information will be redacted: (1) all but the last four digits of a taxpayer identification number, financial account number, or driver's license number; all but the year of a person's date of birth; and a social security number.

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Printed name of Owner or Agent

Signature of Owner or Agent

Date

Printed name of Owner or Agent

Signature of Owner or Agent

Date

Printed name of Owner or Agent

Signature of Owner or Agent

Date

Phone number of Owner or Agent E-mail address of Owner or Agent

Mailing address of Owner or Agent

Approved by County of [Insert County] and verified that the Property, APN, and Owner are accurate and meet the eligibility requirements of program:

Title and Printed name of County Representative

Signature of County Representative

Date

Property Address: _____
APN: _____

**Household Hazardous Waste, Disaster Debris, and Hazard Tree Removal Program
Property Information**

Please identify all that apply on the Property:

Vehicles	Location	Description	Comments
Car			
Boat or Trailer			
Other vehicles (ATVs, motorcycles, trailers, vans, motorhomes, recreational vehicles, trailers, etc)			
Other (farm equipment, construction equip, etc):			

Underground Tanks	Location	Construction Date (If Known)	Comments
Septic ¹ Tanks and Leach Fields			
Fuel/Oil/Kerosene/ Propane Tanks ²			
Water tanks			
Other:			

1. Septic tanks will be pumped of all waste as part of the Full-Service Removal Program only if they pose a hazard to crews.

2. Owner must provide documentation of ownership for large propane tanks to be removed.

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Underground Structures	Location	Construction Date (If Known)	Comments
Basement			
Root Cellar			
Other (water wells, cisterns/dug wells, mine shafts, bomb shelters, etc):			
Former or active buried trash and debris piles			

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Insert or Draw Map of Property

Additional Property Informatio

Property Address: _____
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