RESOLUTION NO. 2018-09

A RESOLUTION IN OPPOSITION TO NEW MEXICO
HOUSE BILL 98 TITLED “LOCAL ELECTION ACT”

Sponsored by Mayor Ken Ladner and Councilor Cynthia Ann Bettison.

WHEREAS, the Town of Silver City, New Mexico, is governed pursuant to and by the authority of its Territorial Charter of 1878, the last remaining Territorial Charter in the State of New Mexico; and

WHEREAS, Article III of said Charter (as amended) provides for local governance of its elections, and provides authority for the Town to adopt a comprehensive scheme for the conduct of elections, which shall be consistent with the safeguards and procedures of the State’s Municipal Election Code; and

WHEREAS, House Bill 98, the “Local Election Act” (“LEA”) contains numerous provisions which directly impact the authorities granted to the Town under its Territorial Charter, including staggered elections of Councilors and the conduct of its ballot questions and special elections therefor; and

WHEREAS, certain of the provisions of the LEA will serve to deprive write-in candidates of equal protection under the law as well as potentially disenfranchising citizens of the Town with regard to the value of their vote for qualified write-in candidates; and

WHEREAS, the Town Council has been entrusted by the people of the Town to protect and defend its Territorial Charter from usurpation by the State Legislature and the consequential deprivation of the power to conduct its local elections, a vital and core power of the Town; and

WHEREAS, depriving the Town of its right to conduct its non-partisan elections under the guidance and management of a non-partisan Town Clerk in favor of a transfer to a partisan County Clerk is against public policy and contrary to Article X, Section 6 E. of the New Mexico Constitution, which states:

“The purpose of this section is to provide for maximum local self government. A liberal construction shall be given to the powers of municipalities.”

And,

WHEREAS, the proposed legislation in House Bill 98 so broadly attacks the integrity of the Town’s Territorial Charter as to constitute a de facto repeal of said Charter, which is beyond the power and scope of the proposed legislation; and

WHEREAS, it has been the repeated policy of the Governor’s Office, shared in common with the other branches of State Government, that the noble history of the Territory and State of New Mexico be honored, and that due reverence and continuing honor be given to its history, a living
part of which is the last New Mexico Territorial Charter in existence; and

WHEREAS, in the absence of any finding that the Town of Silver City’s continued control of its local elections would be repugnant to the interests of the State of New Mexico or in some way harm the general public’s entitlement to fair and well-regulated elections, the applicability of the LEA to the Town of Silver City is completely unjustified and neither supported in fact and law;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF SILVER CITY:

1. Affirms its strong opposition of New Mexico House Bill 98, titled the “Local Election Act” or any amendments or substitutions insofar as it may be in conflict with the affirmations of local governance found in the Town's Territorial Charter.

2. Affirms its strong opposition to any act of legislation which would inhibit or abrogate the Town’s authority to conduct its own local elections consistent with its Territorial Charter and the Municipal Ordinances derived therefrom.

PASSED, ADOPTED AND APPROVED this 13th day of February, 2018.

(Seal)

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk