

**NOTICE OF INTENT
TO ADOPT AN ORDINANCE AMENDING CHAPTER 54, GENERAL UTILITIES;
SEWERS, §54.010, et seq.,
AND
AND CHAPTER 95, STREETS AND SIDEWALKS, §95.021**

The Council of the Town of Silver City, Grant County, New Mexico hereby gives notice of its intention to adopt proposed amendments to the Town of Silver City Code of Ordinances. This notice is given the title as follows:

**ORDINANCE NO. 1135
AN ORDINANCE AMENDING CHAPTER 54, GENERAL UTILITIES; SEWERS
§54.010, et seq.,
AND
CHAPTER 95, STREETS AND SIDEWALKS, §95.021**

INTRODUCED BY COUNCILOR STEVE MAY

WHEREAS, the Town Council of the Town of Silver City has a duty to manage and regulate the public rights of ways, including streets within the Town; and

WHEREAS, under existing provisions of the Municipal Code, permits are required to break pavement, cut curbs, and perform excavations upon Town streets for the installation of water and sewer laterals, and that such construction is presently performed by licensed private utility contractors; and

WHEREAS, it is the Town's obligation to assure that the restoration of the breaking or excavations is performed according to Town standards for street construction; and

WHEREAS, the Town Council considers it mutually beneficial to share partial costs with in-Town property owners and occupants for the restoration of pavement breaks, curb, sidewalk and gutter repair after replacement of existing damaged sewer laterals within Town streets and rights-of-way; and

WHEREAS, the Town Council is aware that it is a practice of some contractors and others to perform substandard restoration, or to perform no restoration at all; and

WHEREAS, the Town Council, further, has concluded that the present system of assuring payment from property owners, contractors, and others for the restoration of pavement breaks, curb cuts, and excavation upon Town rights-of-way is ineffective, thus requiring the Town to make the repairs at its own expense, causing significant economic loss to the Town; and

WHEREAS, the Town Council is aware that faulty restoration of streets and curbs may present a danger to the public health, safety and welfare of persons and that amendments to the Municipal Code of Ordinances are required for the health, safety, and welfare of the Town's inhabitants and visitors;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

CHAPTER 54 (GENERAL UTILITIES; SEWERS), §54.010 is re-titled and its subsections (A) and (B) are deleted in their entirety, with a new subsection (C) added, all of which shall read as follows:

§54.010 INSTALLATION OF NEW WATER AND SEWER SERVICE LATERALS WITHIN THE TOWN

(A) The Town of Silver City Utilities Department will perform the installation of all new water and sanitary sewer service connections within the boundaries of the Town. A utility tap request form must be completed and submitted to the Utilities Department, which shall request the installation of water or sanitary sewer laterals, which may include the breaking of existing pavement, sidewalk, curb or gutter for the purpose of

excavating service lateral trenches.

The Town shall perform all re-mediation, including backfilling, curb and gutter restoration, and patching associated with its installation of new water or sanitary sewer laterals. The costs of restoration for street excavations, street breaking, and curb/gutter/sidewalk cuts shall be the responsibility of the legal owner of the property(ies) for whose benefit those activities has occurred and shall be separate and in addition to all other fees required. A schedule of fees shall be developed by the Director of Utilities and published.

Prior to the Town's commencement of any excavation the party requesting the installation of any new sanitary sewer or water service lateral shall meet with the Utilities Director who shall advise the applicant of the fees and costs to install the requested service laterals based upon the schedule mentioned above.

(B) Restoration shall be to the standards prescribed and published by the Director of Utilities, including types of fill required, compaction standards, and patching technical requirements. Cuts will be kept as small as is reasonably possible and will be cut in a square or rectangular shape with an appropriate piece of equipment so as to minimize damage to the street.

(C) After the installation of the sewer service lateral, it shall be the responsibility of the property owner for maintenance and repair of that line from the main to and beyond the property line of the property being served.

CHAPTER 54 (GENERAL UTILITIES; SEWERS), §54.011 is re-titled and its subsections (A), (B) and (C) are deleted in their entirety and replaced with new subsections, all of which shall read as follows:

§ 54.011 WATER AND SEWER SERVICE LATERALS OUTSIDE TOWN

BOUNDARIES:

(A) New water service lateral connections from the Town's water system to the property line of the property to be served shall be constructed exclusively by the Town's Utilities Department. New sanitary sewer service laterals from the main line to the property line shall be installed by a licensed utility contractor at the property owner's expense in accordance with Town standards and shall be subject to inspection by the Town. With regard to all service laterals being constructed, the trenching, backfilling, and pavement patching shall be the responsibility of the owner of the property to be served.

(B) After the installation of the sewer service lateral, it shall be the responsibility of the property owner for maintenance and repair of that line from the main to and beyond the property line of the property being served.

CHAPTER 54 (GENERAL UTILITIES; SEWERS), existing subsection §54.012 is renumbered as §54.013 as is all the subsections following through subsection §54.023, and a new §54.012 is inserted, and shall read:

§54.012 SANITARY SEWER SERVICE LATERAL REPAIR AND REPLACEMENT.

(A) Property occupants or property owners who repair or replace their existing sewer service lateral located within the Town boundaries shall contract for a licensed utility contractor to perform the work. Prior to commencing the work, the contractor must notify the Utilities Department and obtain a permit to proceed, which may include permission for the cutting and removal of street, curb, gutter, and sidewalk. If there is to be any cutting or trenching, the contractor shall deposit the sum of \$500.00 as a

security to ensure compliance with the provisions herein, referring to the backfilling and restoration of curb, gutter, sidewalk, and roadway.

(B) All roadway cuts shall be kept to a minimum and shall be performed by a method which results in a straight cut with no jagged edges. Contractors shall be required to install a magnetic warning tape indicating that a buried sewer service line exists.

(C) Since most existing sewer laterals collapse or become damaged due to vehicular traffic on public rights-of-ways and root invasion, the Town Council chooses to partially share the costs with property owners or contracting occupants for the restoration of the paved roadway and the replacement of curb, gutter and sidewalk located within the Town's rights-of-way. Based upon calculations of what the restorations would actually cost Town crews to perform the work, the Town will reimburse fifty percent (50%) of that amount to the property owner or contracting occupant.

(D) Prior to commencing excavation, the contractor must obtain approval of the cut area from the Public Works Director or his designee. The contractor shall perform compaction and testing of backfill and meet the requirement of the specifications which shall accompany each permit, dependent on type of trench (under pavement, unpaved road, outside of roadway) to be performed. Results of compaction tests must be submitted to the Town of Silver City's Utilities Department for review and approval prior to patching of the roadway. Should jagged edges occur as a result of trenching or backfilling, the contractor shall re-cut the asphalt and square the cut. The contractor shall be responsible for patching of the paved roadway, and the replacement of curb,

gutter, and sidewalk removed or damaged while performing the utility work. All remediation and restoration must be completed within 7 working days after completion of the sewer service replacement, unless good cause is shown to the Public Works Director or his designee. Upon completion of all work required, the contractor shall be responsible for notifying the Public Works Director or his designee before the end of the following work day. The completed project shall be inspected by the Public Works Director or his designee within three working days thereafter. Upon approval of the Public Works Director or his designee, the \$500.00 deposit will be returned to the contractor and a one year warranty period will be enforced against the contractor for the benefit of the Town, to assure quality of workmanship. Failure to meet the requirements of this section will result in the forfeiture of as much of the security deposit that is necessary to cover the Town's cost of restoration. Should the cost exceed the deposit, the contractor will be held responsible for the difference, and such amount will be considered a debt to the Town. Further, failure of the contractor to perform in accordance with these provisions shall be deemed a misdemeanor and subject to the penalties and imprisonment provided for herein.

(E) In the event of an emergency situation, the permit shall be obtained the next immediate working day. The contractor must also notify all emergency agencies of any roadway closures, partial closures, or detours required to perform the service line replacement prior to commencing work.

(F) Any person performing any street excavations, street breaking, curb/gutter/sidewalk cuts within Town boundaries without a valid permit, or who fails to comply with any other requirement herein this section shall be subject to a penalty of

not more than \$500.00 for each occurrence, and up to ninety (90) days imprisonment, except that each day of continuing violation shall be considered a separate offense.

CHAPTER 54 (GENERAL UTILITIES; SEWERS), a new subsection §54.074 is added which reads:

All newly constructed lateral sewer service lines shall have a one-way valve installed in it from three to five feet from the building it serves. This requirement shall apply to service lines within and outside the boundaries of the Town.

CHAPTER 95 (STREETS AND SIDEWALKS), §95.021 (SCHEDULE OF CHARGES) is deleted in its entirety, and replaced with:

§95.021 SCHEDULE OF CHARGES.

Permits for excavations within Town boundaries, other than as noted in subsection (B) herein, will require a cost analysis for restoration prepared by the applicant or his representative and approved by the Public Works Director. After consideration, the Director will determine whether the Town will perform the restoration, or the applicant. If the Town is to perform the restoration, the applicant shall submit a deposit in the amount of the cost estimate for restoration. If the deposited amount exceeds the actual cost of restoration, the balance shall be returned to the applicant within 30 days of completion. If the deposited amount fails to cover the actual cost of restoration, the applicant shall pay the balance within 30 days of notification of the deficiency. If the Public Works Director delegates to the applicant the performance of restoration, the construction shall be to the standards of construction for Town streets then in effect, and shall be warranted by the applicant for a period of one year against breaking and settling. Prior to the commencement of the excavation, other conditions

deemed necessary for the protection of Town streets and the public, including, but not limited to compaction testing and aggregate constitution, may be attached to any permit issued in the discretion of the Public Works Director.

(B) In all cases where the purpose of excavation is for the installation, construction, repair or replacement of water and sewer service laterals, the provisions of Chapter 54, §54.010, et seq. of this Municipal Code shall apply, and not the provisions of this section.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this _____ day of _____, 2007.

(Seal)

TOWN OF SILVER CITY

James R. Marshall, Mayor

ATTEST:

Ann L. Mackie, Town Clerk

Consideration of the final adoption of such proposed ordinance will not take place until at least two (2) weeks subsequent to the date of this notice and only at a public meeting called and held in accordance with Section 3-17-3, N.M.S.A. 1978. Consideration of adoption of said ordinance is currently scheduled for and will not take place prior to December 11, 2007.

/s/

Ann L Mackie, Town Clerk

Nov. 14, 2007

Date