

**ORDINANCE NO. 1138**

**AN ORDINANCE AMENDING CHAPTER 95, BY ADDING A NEW SUBSECTION 95-090 OF THE TOWN OF SILVER CITY MUNICIPAL CODE, RELATING TO THE USE, IMPROVEMENT AND DEVELOPMENT OF TOWN-OWNED STREETS AND PUBLIC RIGHTS-OF- WAY WITHIN THE TOWN LIMITS OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO.**

**INTRODUCED BY COUNCILOR SIMON WHEATON-SMITH**

**WHEREAS**, the Town Council of the Town of Silver City recognizes that there are a significant number of unimproved dedicated rights-of-way in the Town which have not been improved and have yet to be accepted as streets, alleys or public thoroughfares; and

**WHEREAS**, the Town Council has a concern that unauthorized use of and constructions upon said rights-of-way may present a danger to the public health, safety and welfare of persons; and

**WHEREAS**, the Town Council is aware that there presently exists incomplete regulation of the construction of driveways which intersect with public streets and that there exists the potential of harm to the public and the interference with free passage on streets and roadways; and

**WHEREAS**, the Town Council has reviewed ordinances currently in force with regard to the use, improvement, or encroachment upon rights-of-way as well as proper design standards for the construction of driveways which intersect with streets and rights-of-way; and

**WHEREAS**, the Town Council has deemed that the amendments to the Town's Code of Ordinances as provided for herein are necessary for the health, safety and welfare of the inhabitants of the Town;

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

Chapter 95: Streets and Sidewalks is hereby amended to include a new subsection:

95-090 DEVELOPMENT AND IMPROVEMENT OF STREETS AND PUBLIC RIGHTS-OF WAY; DESIGN STANDARDS FOR DRIVEWAYS

1. No person shall grade, construct upon, remove native or ornamental vegetation,

except as provided in Section 93.05, or otherwise develop or improve public rights-of-way within the municipal boundaries of the Town without a permit issued by the Town Manager or his/her designee. The cost of the permit shall be determined annually by the Town Manager administratively, and such fee shall be posted at Town Hall and the Department of Public Works. Activities involving excavations and pavement breaking/curb and gutter cuts for the purpose of utility installation or maintenance shall be governed by the provisions of Chapter 54, relating to the installation and repair of water and sewer service laterals.

2. No person shall make improvements upon or encroach upon Town streets without a permit issued by the Town Manager or his designee. For the purpose of this subsection, improvements shall include but not be limited to the construction or removal of curbs, gutters, street surface, sidewalks, and driveways. All such authorized improvements shall be to Town standards.

3. In any public right-of-way, the construction of new driveways, or any alteration of existing driveways shall require a permit issued by the Town Manager or his/her designee and shall meet the following design standards:

A. Driveways shall intersect public streets at 90 degrees, unless otherwise approved. Driveways shall have a maximum grade of 5% from the edge of the street to the edge of the right-of-way or for a distance of 10 feet, whichever is less, unless otherwise approved. Driveways shall be a concrete apron section where curbs occur. Asphalt is permitted for the construction of a driveway if the adjoining public street is constructed of asphalt pavement with no curbs. Driveways may be surfaced with a minimum of 4 inches of fine graded base material for a distance of ten feet beyond the edge of the street or to the edge of the right-of-way, whichever is less for those streets that exist without asphalt pavement.

B. Driveways shall cross sidewalks at the sidewalk grade and at the approaching sidewalk width. The sidewalk shall be constructed separately from the driveway apron unless otherwise approved by the Town Manager or a designee. The integration of

sidewalk and driveway shall meet current standards of the Americans with Disabilities Act. Where sidewalks do not occur, the driveway shall not create a hazard to pedestrians traveling along the right-of-way.

C. Driveways shall not interfere with shoulder or curb drainage.

Modifications to existing drainage systems, including the installation of culverts, shall be approved by the Town Manager or a designee. The minimum size for a culvert is 18 inches unless otherwise approved and shall have at least 12 inches of cover over the top of the culvert to driveway grade.

D. The Town Manager or a designee may prohibit driveway access directly onto arterial streets.

E. A single driveway may serve no more than two parcels of land.

F. In any public right-of-way, new driveways serving multiple residences on the same parcel, or serving a commercial enterprise, the Town Manager or his/her designee may require that these driveways be designed by a licensed civil engineer or by an architect. He or she may also require a Traffic Impact Analysis.

G. The cost of a driveway permit shall be determined by the Town Manager administratively, and such fee shall be posted at Town Hall and the Department of Public Works.

4. The permittee shall be principally liable to the Town for any failure to comply with the provisions and conditions of the permit and the approved driveway design. The Town in granting a permit waives none of its powers or rights to require the future change of operation, removal, relocation or proper maintenance of any driveway access within the public right-of-way.

5. In any construction, improvement, or excavation occurring pursuant to the provisions of this section, all disturbed slopes or earthen areas shall be restored to their original condition or in a manner approved by the Town Manager or a designee.

6. The cost of permit shall be determined by the Town Manager administratively, and such fee shall be posted at Town Hall and the Department of Public Works.

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 11th day of December, 2007.

(Seal)

TOWN OF SILVER CITY

/s/ \_\_\_\_\_  
James R. Marshall, Mayor

ATTEST:

/s/ \_\_\_\_\_  
Ann L. Mackie, Town Clerk