

ORDINANCE NO. 1276

AN ORDINANCE AMENDING APPENDIX C (LAND USE AND ZONING CODE OF 2010), ARTICLE I (GENERAL PROVISIONS), SECTIONS 1.3.1, 1.5.2; ARTICLE II (DEFINITIONS), SECTION 2.2; ARTICLE III (DISTRICT REGULATIONS), TABLE 3.2, SECTION 3.3.2 C) 3) AND SECTION 3.4.1 C)14), TABLE 3.34.2, SECTION 3.4.2 A) 7); ARTICLE V (DEVELOPMENT STANDARDS) SECTION 5.9.1 B, 5.9.2 A) 6), SECTION 5.15; ARTICLE VI (ADMINISTRATION), SECTION 6.2.12 A), TABLE 6.3.1, SECTION 6.3.14 OF THE TOWN OF SILVER CITY MUNICIPAL CODE

WHEREAS, in Ordinance No. 1174, dated December 14, 2010, the Town Council adopted a Land Use and Zoning Code (“LUZC”) which was incorporated in the Town’s Municipal Code and identified as Appendix “C” thereto; and

WHEREAS, amendments to the LUZC may be initiated by the Town’s Community Development Director pursuant to Section 6.3.2 of said LUZC; and

WHEREAS, upon recent review, said Director found that modification of certain existing provisions is necessary to correct and update the LUZC in the interest of better serving the public; and

WHEREAS, the suggested amendment was presented to the Town’s Planning and Zoning Commission at its regular meeting on December 4, 2018, pursuant to the requirements of Section 6.3.2 of the LUZC, and the Director’s recommendation was approved; and

WHEREAS, the Town Council finds that amending the LUZC as described herein is necessary to the health, safety and welfare of the Town;

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

Article I, Section 1.3.1 is amended by deleting the year 1996 and replacing it with the year of 2017.

Article I, Section 1.5.2 is deleted in its entirety and replaced with:

1.5.2 Sections pertaining to subdivisions, specifically Section 5.1 through 5.8, 6.13.15, 6.13.16, and all applicable definitions in Section 2.2 of the Land Use Code, or as they may later be defined to allow flexibility on smaller divisions, also apply to the Town’s extraterritorial planning and platting jurisdiction (ETJ) which includes all territory within three miles of the municipal boundary and not within the boundary of another municipality. The Town of Silver City and Grant County share concurrent jurisdiction regarding certain subdivision plat approvals in this extraterritorial planning and platting area.

Article II, Section 2.2 is amended by adding a new term and definition of “Short term rental unit” and a new term and definition of “Tiny house”, which shall read as follows:

Short term rental unit. A privately owned residential dwelling, such as but not limited to, a single family detached or multiple family attached unit, apartment, condominium, cooperative apartment, duplex, or any portion of such dwelling rented for occupancy for dwelling, lodging, or sleeping purposes for any period of thirty (30) days or less.

Tiny house. A dwelling that is 400 square feet or less in floor area excluding lofts placed upon a permanent foundation, but does not include structures on chassis with permanent axles or recreational vehicles. For the purposes of this definition, the definitions mentioned in NMAC 14.7.3.28 Appendix Q shall apply and are incorporated herein as if fully set forth.

Article III, Table 3.2 (Uses) is amended by including “Short term rental units” and “Tiny house” in Table 3.2, and shall appear as follows:

Category	Specific Use Type	Ru	RA	RB-1	RB-2	RC	MU	C-HD	C-Lt	C-Hwy	I	Use-Specific Standard
A = Allowed, C = Allowed with Conditional Use Permit, X = Not Allowed												

RESIDENTIAL												
Household Living	Tiny Home	A	A	A	A	A	A	A	C	X	X	X
COMMERCIAL												
Retail Sales and Service	Short Term Rental	A	A	A	A	A	A	A	A	C	C	X

Article III, Section 3.3.2 C) 3) is deleted in its entirety and replaced with:

3) Fences and walls eight feet or less in height, provided that a five-foot wide corridor is maintained between the fence or wall and the primary structure for the purpose of emergency access, and a clear-sight triangle is maintained in accordance with Chapter 42 of the Town of Silver City Code of Ordinances. A Zoning Permit is required for deviations from this regulation to ensure compliance with fire safety regulations. (Note that fences and walls over 6 feet tall require a building permit from the New Mexico Construction Industries Division).

Article III, Section 3.4.1 C) 14) is deleted in its entirety and replaced with:

14) Fences or walls eight feet or less in height, if otherwise allowed by Town regulations. (Fences and walls over 6 feet tall require a building permit from the New Mexico Construction Industries Division).

Article III, Table 3.4.2 Density and Dimensional Standards is amended by removing the Max. Height (feet) limitation of 50 feet from Zone Districts “C-Hwy” and “I”, so that said portion of the Table will appear as follows:

Zone District	Specific Use, as allowed	Floor Area Ratio	Min. Lot Area (sq. ft.)	Min. Street Frontage (feet)	Minimum Setbacks (feet)			Max. Height (feet)
					Street	Side	Rear	

C-Hwy		4	5,000	50	Set by street setback map	5*	0	N/A
I		1	N/A	100	50	20	50	N/A

Article III, Section 3.4.2 A) 7) is deleted in its entirety, and the subsequent sections are to be re-numbered accordingly.

Article V, Section 5.9.1 B is deleted in its entirety.

Article V, Section 5.9.2 A) 6) is deleted in its entirety.

Article V, Section 5.15 and all subsections thereunder are deleted in their entirety and replaced with:

5.15.1 Purpose. The sign regulations of this chapter are intended to promote traffic safety and to enhance the visual appearance of the Town.

5.15.2 General Standards for All Signs. The following requirements shall apply to signs in all zoning districts unless otherwise indicated.

A) *Location*. All signs shall be located on the same parcel as the use to which they are associated, unless the signs qualify as off-premise signs under Section 5.15.6.

B) *Sign Measurement*. The total surface area of all on premise and off-premise signs on a parcel shall be counted in determining the maximum total surface area allowance. Signage is determined by parcel, unless the businesses on a parcel are detached, in which case, signage may be calculated according to the individual lot upon which the business is located. Sign height is measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade is defined as the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. Street frontage on a corner

parcel is measured linearly as the total frontage on all streets.

C) *Wind Load Standard.* All exterior signs shall be engineered to withstand a minimum wind load of 9.5 pounds per square foot.

D) *Illumination.* The light from any illuminated sign shall be shielded and directed so that the light intensity does not generate glare onto nearby adjacent residential areas or into roadways or directly upward. All service lines to signs shall be located underground.

E) *Clear-sight Triangle.* To ensure traffic safety, signs shall not impede the clear-sight triangle (see section 2.2, Definitions).

F) *Dangerous Signs.* No property owner shall retain on any premises any sign which is in a dangerous or defective condition. In cases of immediate danger to the public due to the defective nature of a sign, the Community Development Director may cause the immediate removal of the sign and may assess the costs of the removal against the owner of the property.

G) *Obsolete Signs.* Signs that identify businesses, goods, or services no longer provided on the premises shall be removed within 30 days after the business or occupancy ceases.

H) *Addresses.* At least one sign on each parcel shall prominently display the address of the parcel, with the exception of off-premise signs.

Time Limits. Temporary signs or banners may be erected for a period not to exceed 60 days.

Article VI, Section 6.2.12 A) is deleted in its entirety and replaced with the following:

A) Decisions and recommendations shall be reduced to writing and include findings of fact and other factors considered, and a statement of the basis which such facts or factors were determined, with specific reference to the application of those findings to the relevant standards for approval or denial set forth in this Land Use Code.

Article VI, Revised Table 6.3.1 Procedural Chart/Administrative Procedures is amended

by removing from the Table the term “sign permit” and all sign permit procedures mentioned thereafter.

Article VI, Section 6.3.14 and all subsections thereunder are deleted in their entirety.

Subsequent sections shall be renumbered.

PASSED, APPROVED, AND ADOPTED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 26th day of February, 2019.

(Seal)

TOWN OF SILVER CITY

/s/ _____
Ken Ladner, Mayor

Attest:

/s/ _____
Ann L. Mackie, Town Clerk