

**RESOLUTION NO. 2019-11**

**A RESOLUTION CLARIFYING AND EXPRESSING TOWN OF SILVER CITY  
POLICY OF NEITHER SEEKING NOR PERMITTING THE ANNEXATION OF  
DEVELOPED PROPERTY TO THE TOWN**

WHEREAS, the inhabitants of the Town of Silver City, New Mexico are proud of the Town's long and distinguished tradition of protecting the health and welfare of its people, as well as its commitment towards preserving the Town as a comfortable and pleasant place in which to reside; and

WHEREAS, the Town Council is aware of the balance between growth and the needs of its inhabitants to maintain a healthy and secure quality of life; and

WHEREAS, the Town was created by Special Act of the Territory of New Mexico on February 15, 1878, and the first provision thereof defined the Town as "An area of two miles square conforming to the points of the compass, north, east, south and west, measuring from the point intersecting at right angles Broadway and Main streets, which point shall be the center of the corporate limits of the town site of Silver City", thus indicating an original intent on limiting the size of the Town to maximize local self-government; and

WHEREAS, the Town has adopted a lengthy Land Use And Zoning Code of 2010, recently amended, and a Comprehensive Plan dated September 2017, which in harmony sets standards of development, including zoning districts restricting land use, density of land occupation, construction standards for roadways, management of drainage and long-term planning for intelligent growth, all designed for the health, safety and welfare of the Town and its inhabitants; and

WHEREAS, the Town Council adopts the finding of the Town's Finance Director, who after consultation with the Police Chief and the Fire Chief, concludes that there does not presently exist sufficient sources of funds and personnel resources to expand the Town's police, fire, and animal control coverage to an expanded jurisdiction where such services would be required; and

WHEREAS, the Town Council adopts the representations of the Director of the Public Works Department of the Town that the majority, if not all, of the developed lands surrounding the Town have infrastructures which would likely not meet Town standards for roads, emergency access, curbs, gutters, drainage and grade; and

WHEREAS, the Director of Community Development reminds the Town Council that lands lying outside of the Town's boundaries in Grant County are not subject to zoning requirements, and harmonious land use planning has been absent therefrom; and

WHEREAS, the Town Council finds that there exists the potential of significant population influx which would necessitate redistricting or otherwise modifying the manner of local self-government, which would be costly and disruptive; and

WHEREAS, the Town Council adopts as its finding those representations of the Code Enforcement Officer and Animal Control Officer that the task and expense of enforcing existing Town codes in areas that have traditionally not been subject to regulation and the presence of higher standards imposed by municipal regulation would overwhelm their resources, and would be to the detriment of the health, safety and welfare of the existing inhabitants of the Town; and

WHEREAS, the Town Council finds that there are significant neighborhoods within the Town that have historically been under served due to funding limitations and other economic realities, including a limited tax base, state legislative controls over revenue opportunities, and further expansion of Town jurisdiction will dilute the resources required to serve those existing areas of the Town; and

WHEREAS, the Town Council is deeply concerned of the financial impacts upon residents who are unrepresented in annexation proceedings, which may be substantial and thus cause great harm. It is likely that any annexation would necessitate the creation of a special improvement tax assessment for upgrade of streets, alleys, drainage, and grade. The harm to those who are unrepresented must be considered; and

WHEREAS, the Town Council finds that existing residents of the developed areas contiguous to the Town do their shopping and business within the Town, so no significant increase of revenue will inure to the Town by annexation. The increased costs, however, borne by the Town, will increase and result in negative cash flows to the Town, thus creating an unequal economic relationship and be contrary to the principal of “fair share” which has been expressed by the New Mexico Department of Finance in its public pronouncements, which assumes a balance between the inherent costs of growth through annexation as opposed to additional revenue sources;

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

1. Affirms a policy against annexation of developed property, whether or not contiguous to the boundaries of the Town of Silver City, unless the Town Manager first makes a determination that the proposed annexation would not be detrimental to the health, safety and welfare of the Town, and that the Town Council specifically make the following findings:

A. That the streets, grade, gutters and drainage in the proposed area meet current Town codes.

B. That there will exist sufficient coverage by police, fire, and animal control to protect persons and property.

C. That the principal of “fair share” that indicates that the inherent costs to the Town derived from the annexation would be fairly balanced with the economic benefits to the Town.

D. That there exists in the Town budget and future revenue sources sufficient funds to expand both police, fire, and animal control for reasonable coverage of the proposed annexed area.

E. That the Town has the funds and ability to extend other municipal services and utilities to the proposed annexed area, including the upgrade of water systems for fire control.

F. That a financial impact statement shall be prepared prior to Town Council consideration of any annexation.

G. That the economic impact upon non-owner residents of the proposed annexation area must be ascertained and considered.

H. That the considerations described in Section 6.3.3 E) of the Town's Land Use and Zoning Code shall be particularly addressed.

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**BE IT FURTHER RESOLVED** that the foregoing is meant to be an expression of policy by this Town Council and that in no way is this Resolution intended to amend or otherwise modify the Town's Municipal and Land Use and Zoning Codes.

**PASSED, APPROVED, AND ADOPTED this 9th day of April, 2019.**

(Seal)

/s/ \_\_\_\_\_  
Ken Ladner, Mayor

Attest:

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