

ORDINANCE NO. 1188

AN ORDINANCE AMENDING CHAPTER 6, SECTION 6-1 (DEFINITIONS), SECTION 6-4 (KEEPING OF DOGS AND CATS), SECTION 6-6 (KEEPING OF CATTLE, HORSES, FOWL OR LIVESTOCK RESTRICTED), SECTION 6-55 (CITATIONS; CONTENTS), SECTION 6-56 (FAILURE TO PAY PENALTY ASSESSMENT OR CORRECT VIOLATION), SECTION 6-78 (ANNUAL LICENSE; PERMIT) OF THE TOWN OF SILVER CITY MUNICIPAL CODE

Co-Sponsors: Councilor Cynthia Ann Bettison and Councilor Michael S. Morones

WHEREAS, the Town Council of the Town of Silver City finds that the regulation of livestock, domestic animals, fowl and game birds within the Town is necessary for the health safety and welfare of the Town; and

WHEREAS, the Town of Silver City has authority under its Charter and State of New Mexico Statutes to pass ordinances and make necessary rules and regulations regarding livestock, wild and domestic animals within the Town; and

WHEREAS, the Town Council has reviewed the existing ordinances of the Town regarding the regulation of livestock, wild and domestic animals, fowl and game birds, and finds that certain modifications thereof are necessary for 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:

Chapter 6, Section 6-1. Definitions is hereby amended to include the following:

Livestock shall be defined as set forth in Section 77-2-1-1A, NMSA 1978.

Fowl and game birds shall be defined as chickens, turkeys, geese, ducks, guineas, quail, pheasant, doves, pigeons, ostriches, peacocks and emus.

Swine shall be defined as pigs, pot-bellied pigs, hogs, and boars.

Chapter 6, Section 6-4(c) is hereby deleted.

Chapter 6, Section 6-6 (Title and introductory paragraph) is hereby amended as follows:

The Section title shall be designated to read: **“Keeping of livestock, fowl and game birds restricted.”**

Further,

The introductory paragraph to section 6-6 is deleted and replaced with the following, to be designated as Section 6-6 (A):

(A) “It shall be unlawful for any person to keep or harbor any fowl, game bird or livestock on premises located within the corporate Town limits , except as follows:”

Chapter 6, Section 6-6 (3) is deleted and replaced with:

(3) Small domestic animals, fish or birds other than those defined as fowl and game birds, which are customarily kept in the dwelling for non-commercial purposes and do not constitute an animal nuisance. Notwithstanding any other provision of this Chapter, the keeping of swine of any description and roosters shall not be permitted within the corporate limits of the Town.

Chapter 6, Section 6-6 (4) is deleted and replaced with:

(4) The prohibition against keeping fowl or game birds shall not apply to the keeping of chickens, which shall be allowed by permit, subject to the following conditions:

(a) A household be permitted to keep up to 6 female chickens within the corporate limits of the Town. Said permit shall include and be subject to the terms and conditions described herein this section; and

(b) No roosters shall be permitted; and

(c) Chickens and their products must be for household and non-commercial use; and

(d) Chickens shall be kept in a predator-proof enclosure which shall be no less than four (4) square feet per chicken and designed to be easily accessed, cleaned and maintained by the owners. The enclosure must contain a “chicken house” or coop so that each chicken shall have a location to roost; and

(e) No outdoor chicken enclosure shall be located closer than 20 feet to any neighboring property line, including Town of Silver City right-of-way; and

(f) The owner of the chickens shall provide adequate screening so that the enclosure is not visible to adjoining property owners; and

(g) The outdoor chicken enclosure shall be located in the backyard of the lot, not on the side yard or in the front yard. For purposes of this subsection, “backyard” shall be that portion of a lot that begins at the rear drip line of the principal structure. Likewise, “side yard” shall be define as that portion of a lot which begins at the front of the lot extending along the side of the principal structure and terminates at the rear drip line of that structure; and

(h) The keeping of chickens be in conformance with zoning provisions of the Town’s Land Use Code; and

(i) Chickens shall be given adequate care and shall not be treated cruelly or inhumanely; and

(j) With due regard for neighboring properties, chickens shall be fed dry feed, clean water or kitchen scraps in a feed container kept free of garbage and rotten scraps.

(k) Before issuing such permits, the animal control office shall determine that the keeping of chickens is done in such a manner that the standards of this section are complied with; and, the keeping of chickens shall not likely constitute a nuisance to adjoining neighbors; and, the animal control office may make such permits subject to restrictions as to sanitary conditions,

number of chickens up to a total of 6 female chickens, location of the same, availability and condition of enclosures or shelters, availability of food and water, and other conditions as he may deem necessary.

A new subsection (B) is added to Chapter 6, Section 6-6, which shall read:

(B) Chickens shall be kept on a lot containing single-family dwellings. Chickens may be kept on a lot under one ownership with multiple-family dwellings if all residents and the owner consent in writing, the consent is provided at the time of the permit request, and a copy of the written consent is kept by the owner of the chickens to be presented for inspection upon the request of animal control officer or person acting as the animal control officer.

A new subsection (C) is added to Chapter 6, Section 6-6, which shall read:

(C) The limitation on the number of chickens permitted to be kept shall not apply to school or agricultural extension sponsored programs on their owned or leased property, as long as such keeping is in accordance with State law. A permit will still be required and compliance with the conditions for keeping chickens as described herein shall apply.

A new subsection (D) is added to Chapter 6, Section 6-6, which shall read:

(D) Permits for the keeping of chickens shall be renewed annually and can be revoked at any time by the animal control officer for good cause. Good cause shall mean a failure to comply with the above described conditions.

A new section is added to Chapter 6, Section 6-6 (5), which shall read:

(5) Livestock may be kept in Rural District (Ru) and C-Highway (C-Hwy) within the corporate limits of the Town with a permit obtained from the animal control office subject to the following conditions:

Before issuing such permits, the animal control officer shall determine that the keeping of livestock is to be accomplished in such a manner that such keeping will not likely constitute a nuisance to the adjoining property owners and will not likely endanger the peace, health or welfare of the inhabitants of the Town.

(b) The animal control officer may make such permits subject to restrictions as to sanitary conditions, number of livestock, location of the same, availability and condition of enclosures or shelters, availability of food and water, and other conditions as he may deem necessary.

(c) Livestock shall be kept for household, non-commercial use only.

(d) The keeping of swine of any description is prohibited within the corporate limits of the Town.

(e) No person shall keep livestock within 200 feet of any neighboring property line, including Town of Silver City right-of-ways, residences, rooms, or buildings used for human habitation, business establishments open to the public, except the residence or business establishment of the person owning or controlling the livestock.

(f) Livestock shall not be killed within the corporate town limits, or used, or its products used for commercial purposes.

(g) For the health, welfare, and safety of the public and the protection of neighboring properties, livestock shall be fed dry feed and clean water only, no scraps, slop, garbage or mashes.

(h) Permits for the keeping of livestock shall be renewed annually and can be revoked at any time by the animal control office.

(i) Any persons keeping livestock legally under a permit under the provisions of the prior Animals ordinance has a period of not more than 3 months from the effective date (October X,

2011) of this amended ordinance to conform to the provisions stated herein and to obtain the proper permit, if permissible.

Chapter 6, Section 6-55 is deleted and replaced with the following:

Administrative enforcement; Citations; Citation contents.

(a) Administrative enforcement. It being the desire that enforcement shall first attempt to gain compliance through cooperative effort, the animal control officer shall, upon determination of a violation of this Chapter and that emergency or exigent circumstances do not exist, such as harm or danger to person or property, issue a Notice of Violation and Order To Take Corrective Action. Such Notice and Order may be hand delivered, or delivered by certified mail. Such Notice and Order shall specify the provision or provisions of this Chapter alleged to have been violated along with a short and plain statement of the facts that constitute the violation. The Notice shall include an “Order To Take Corrective Action” requiring compliance within a reasonable time as stated in the Order.

(b) Subject to the provisions for administrative enforcement described in subsection (a) herein and in addition to the power to impound animals as provided in Section 6-103, all officers shall have the authority to issue citations whenever there is probable cause to believe that an emergency or exigent circumstance exists which presents immediate harm or endangerment to person, property or to the animal.

Chapter 6, Section 6-56 is deleted and replaced with:

Section 6-56 Failure to correct violation. If a violation is not corrected during the period provided for in the Order To Take Corrective Action, the alleged violator shall be cited to the municipal court for prosecution for the offense charged.

Section 6-78(a) is amended to change the annual permit fee for the keeping of cats and to include a permit fee for the keeping of chickens and livestock

Cats:
Female and male \$10.00
Spayed/neutered \$2.50

Chickens:
1-6 chickens \$25.00
School sponsored \$25.00

Livestock:
Per head \$25.00

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 8th day of November, 2011.

(Seal)

TOWN OF SILVER CITY

/s/

James R. Marshall, Mayor

ATTEST:

/s/

Ann L. Mackie, Town Clerk