

**ORDINANCE NO. 1280**

**TO ADOPT AN ORDINANCE AMENDING CHAPTER 34, SECTION 34-201 (a), (b) AND (c) , RELATING TO AGGRESSIVE BEGGING AND PROHIBITED SOLICITATIONS UPON TOWN-OWNED STREETS AND PUBLIC RIGHTS-OF-WAY; CHAPTER 10, SECTION 10-137 (UNSOLICITED ENTRY ONTO PRIVATE PROPERTY PROHIBITED) AND SECTION 10-139 (UNLAWFUL TO ENTER UPON POSTED PREMISES); AND CHAPTER 36, SECTION 36-22 (PROHIBITED ACTS) OF THE TOWN OF SILVER CITY MUNICIPAL CODE.**

Sponsor: Councilor Cynthia Ann Bettison

**WHEREAS**, on May 11, 2010, the Town Council of the Town of Silver City adopted Ordinance 1164 entitled “**AN ORDINANCE AMENDING CHAPTER 130, SECTION 130.11(B) , OF THE TOWN OF SILVER CITY MUNICIPAL CODE, RELATING TO AGGRESSIVE BEGGING AND PROHIBITED SOLICITATIONS UPON TOWN-OWNED STREETS AND PUBLIC RIGHTS-OF- WAY WITHIN THE CITY LIMITS OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO**”; and

**WHEREAS**, the Town Council finds that since that date of adoption there has been an evolution of law addressing the balance between protecting the public from activities which interfere with their rights to move about safely and unmolested, on the one hand, and securing the rights of persons to exercise their freedom of speech; and

**WHEREAS**, the Town Council finds that persons engaged in certain forms of speech may by their actions place themselves and others in danger of harm, and that the Town has an obligation to the public’s safety to make reasonable regulations governing such harmful conduct; and

**WHEREAS**, the Town Council finds that the mentioned amendments herein are focused upon public safety and are the minimum degree of regulation necessary to accomplish that purpose, with the least effect upon the public’s right to freedom of expression; and

**WHEREAS**, the Town Council finds that certain activities on sidewalks, at roadsides and certain other locations within the Town are likely to cause harm to pedestrians and distractions to motorists using public roads, thus increasing the likelihood of accidents involving damage to persons and property within the Town; and

**WHEREAS**, the Town Council finds that there has also been an evolution of law regarding the uninvited entrance of peddlers and solicitors upon private property, and the amendment mentioned below is necessary to comply with current law; and

**WHEREAS**, the Town Council finds that these amendments to the Town’s Municipal Code are

necessary for the health, safety, and general welfare of the Town, and its inhabitants and visitors;

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

Chapter 34, Section 201. is renamed **Prohibited Activities Against Pedestrians, Motor Vehicle Drivers, and Bicycle Operators.**

Chapter 34, Section 34-201(a) *Definitions.* is amended as follows:

Delete the definition of *Aggressive Manner* and replace with:

*Aggressive Manner* means and includes:

(1) Intentionally or recklessly making any physical contact with or touching another person in the course of solicitation or other expression of speech, without the person's consent;

(2) Intentionally or recklessly causing another to reasonably fear imminent bodily harm or the commission of a criminal act upon their person or their property in the course of solicitation or other expression of speech, without the person's consent;

(3) Intentionally or recklessly intimidating another without their consent for the purpose of seeking money or other valuable property.

(4) Intentionally or recklessly blocking the safe or free passage of another, whether pedestrian or the operator of a motor vehicle or bicycle on public streets and rights-of-way.

Delete the terms and the defining text thereunder of *Automated teller machine, Automated teller machine facility, Bank, Check cashing business, and Night depository drop.*

Chapter 34, Section 34-201(b) *Prohibited solicitations,* subsections (1), (2), and (3) are deleted in their entirety, and the remaining subsections following are to be renumbered appropriately.

Chapter 34, Section 34-201 (c) *Solicitation on or near street or highway.* is deleted in its entirety and replaced with:

(c) Roadway pedestrian and driver protection.

(1) Purpose: The purpose of this section is to prevent dangers to persons and property, to prevent traffic delays, and to avoid interference with traffic flow. Roadways that have center medians often are designed to handle specific traffic flow problems. Any delay or distraction may interfere with traffic planning. Sometimes persons stand near intersections, on medians and near traffic lights to contact drivers or passengers in cars or bicycles that are passing or that are stopped temporarily due to traffic lights.

(2) It shall be unlawful for any person to enter onto the traveled portion or median of a street or highway and engage in such activity that is likely to distract a driver of a vehicle, or bicycle, or interfere with the safe passage of those vehicles. For purposes of this section, the traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic and shall include bicycle lanes located thereon.

(3) It shall be unlawful for any person to intentionally or recklessly cause a distraction to an operator of a vehicle or bicycle on a public street, trail or roadway where a reasonable person would conclude that the effect of such action was to create such distraction.

Chapter 10, Section 137. **Unsolicited entry onto private property prohibited.** is deleted in its entirety and the Article VI sections following are to be renumbered.

Chapter 10, Section 139 (current) is deleted in its entirety and replaced with:

**Section 139. Unlawful to enter upon posted premises.**

It shall be unlawful for any solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise to enter upon any private residence when the same are posted with a sign stating “No Peddlers Allowed” or “No Solicitations Allowed” or other words to such effect.

Chapter 36, Section 36-22 *Prohibited acts*, subsection (11) is deleted in its entirety, and the remaining subsections following are to be renumbered appropriately.

///

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the Town of Silver City,  
Grant County, New Mexico, this 25th day of June, 2019.

(Seal)

**TOWN OF SILVER CITY**

/s/ \_\_\_\_\_

Ken Ladner, Mayor

Attest:

/s/ \_\_\_\_\_

Ann L. Mackie, Town Clerk