

**SUPERCEDING NOTICE OF INTENT TO ADOPT AN ORDINANCE AMENDING
CHAPTER 6 (ANIMALS), ARTICLE 1, AND ADDING A NEW SECTION 6-15
(KEEPING OF HONEY BEES) OF THE CODE OF ORDINANCES OF THE TOWN OF
SILVER CITY**

The Council of the Town of Silver City, Grant County, New Mexico hereby gives notice of its intention to adopt a proposed amendment to the Town of Silver City Code of Ordinances. This notice is given the title as follows:

ORDINANCE NO. 1272

**AN ORDINANCE AMENDING CHAPTER 6 (ANIMALS), ARTICLE I, AND ADDING
A NEW SECTION 6-15 (KEEPING OF HONEY BEES) OF THE CODE OF
ORDINANCES OF THE TOWN OF SILVER CITY**

Sponsored by: Councilor Lynda D. Aiman-Smith

WHEREAS, the Town Council has authority under its Territorial Charter and its Municipal Code to pass ordinances designed to promote the general welfare, protect public safety, and regulate certain activities within the Town; and

WHEREAS, the Town Council has been made aware of the increasing engagement of persons in the hobby of honey-bee keeping, as well as the need for appropriate regulation for public safety; and

WHEREAS, the Town Council finds that the provisions regarding honey-bee keeping, registration and permitting as contained in this ordinance are appropriate and necessary for the health, safety, and welfare of the Town and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Silver City, Grant County, New Mexico, that:

Chapter 6, Article I, Section 6-15 shall be added as a new section and shall read:

Sec. 6-15. Keeping of honey bees.

1. The hobby of honey-bee keeping is allowed in all zoning districts of the Town, subject to the restrictions, conditions, standards, and permitting requirements described herein this chapter.

(a) General Restrictions.

(1) Honey-bee keeping shall be limited to *Apis mellifera ligustica* (European/western common honeybee).

(2) No person shall keep, maintain, or own an apiary of one or more hives within the Town without first registering said apiary and obtaining a permit.

(i) Registration shall be made in writing and a permit issued upon forms created and published by the Town Manager, which shall ensure full

disclosure and an acknowledgment of the restrictions, conditions, and standards of care required by the permittee.

(3) Persons who wish to own and/or maintain an apiary on property that is owned by another must include with his/her registration and application for permit a written statement of permission from said property owner. Nothing in this section shall abrogate or in any way interfere with the property rights of said owner, including the owner's right to prohibit bee keeping upon his/her property. If such permission is withdrawn by written notice to the Town, any permits previously issued shall be immediately rendered revoked and void.

(4) A registrant and applicant must have attained the age of eighteen (18) years of age.

(5) An applicant granted a permit shall permit entry upon the property where the apiary is located at reasonable times for inspection. This right of inspection is limited to outdoor facilities of the apiary and does not extend to residences, nor to other closed structures unless the apiary is located therein.

(b) Hive Densities.

(1) The following are restrictions on the number of hives permitted to be located on particular sized and located parcels or lots:

(i) Less than four thousand three hundred square feet (4,300'sq.) - No hives.

(ii) Greater than four thousand three hundred square feet (4,300'sq.), but less than one-quarter (1/4) acre - two (2) hives.

(iii) Greater than one-quarter acre (1/4 acre), but less than one-half (1/2) acre - four (4) hives.

(iv) Greater than one-half (1/2) acre, but less than one (1) acre - six (6) hives.

(v.) Greater than one (1) acre - no more than eight (8) hives.

(2) For the purposes of lot size determination in this section, adjoining lots of a particular parcel under common ownership shall be merged into one lot.

(c) Hive Placement and Signage Requirements.

(1) Beehive colony(ies) shall be located within a private residential yard area that is behind the residential structure.

(2) In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated as measured from the nearest point on the hive to the property line, the honey bee keeper shall establish and maintain a flyway barrier at least six (6) feet in height above the ground level over the property lines in the vicinity of the apiary.

(3) Entrances to the hive(s) shall face away from or parallel to any adjoining properties.

(4) Regardless of tract size, all hives must be situated at least twenty (20) feet in any direction from all property lines.

(5) No hive(s) shall be located within one-hundred (100) feet of a school, daycare, hospital, church or park.

(6) Honey-bee keepers shall display a sign no smaller than eight inches by ten

inches (8" x 10") at the edge of their property warning passersby of hobby honey bee hive(s) presence.

(d) Hive Management Requirements.

- (1) Honey-bee hive colony(ies) shall be continually managed to provide:
 - (i) responsible oversight of the colony(ies), with attention to public safety,
 - (ii) the well-being of the hive(s) and their inhabitants,
 - (iii) continuous access to a water source proximate to the hive(s) upon the permitted property, to discourage bee visitation at water faucets, bird baths, swimming pools, hose bibs, and other water sources on adjacent public or private lands.
 - (iv) Honey-bee hive colonies' maintenance materials shall be stored in sealed containers, or placed within a building or other bee-proof enclosure.
 - (v) All honey-bee colonies shall be kept in hives consisting of moveable frame and combs so that such hives may be readily inspected.
 - (vi) All honey-bee colonies shall be managed to prevent over population and consequential swarming.
- (2) The permittee shall re-queen each colony at least every two (2) years to prevent agitated behavior and swarming.
- (3) If any colony shall become aggressive and/or swarms upon the property of others, or causes harm to any person or animal, the permittee shall be liable to any victim and the permittee must take immediate steps to abate the danger, including removal or destruction of the colony.

(e) Honey-bee keepers shall abide by recognized best practices for the keeping and maintenance of the hives and colonies as defined and described by the New Mexico Beekeepers Association. Honey-bee keepers shall remain informed about Africanized honey-bee migrations, and apply best practices to keep their own colonies solely of European honey-bee *Apis mellifera ligustica*.

(f) Honey-bee keepers shall be required to maintain proper written records, including but not limited to colony manipulations, observations of bee behavior, any notice of disease as required by the State of New Mexico, and all re-queenings.

2. Variances. Any person who has maintained an apiary for a period of twelve months prior to the adoption of this Ordinance may apply to the Town Manager or his designee for a variance from the restrictions on placement and densities of hives. Such variance shall be granted unless the Town Manager or his designee shall make written findings that such a grant of variance would not be in the best interest of public safety.

3. Penalties. Any person violating any provision of this Section shall be subject to the general penalty provisions of Section 1-9 of the Municipal Code of the Town of Silver City. Further, the failure to abide by the provisions of this Section, or the manifestation of aggressive honey-bee behavior or swarming from a beekeeper's apiary, or the occurrence of the honey-bees from a beekeeper's apiary with the normal use of neighboring properties, shall also be considered as a

public nuisance, with all the civil and criminal remedies available to the Town. Two convictions of violations of this section shall bar the granting of a permit attached to the property upon which the violations were situated.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2018.

(Seal)

Ken Ladner, Mayor

Attest:

Ann L. Mackie, Town Clerk

Consideration of the final adoption of such proposed ordinance will not take place until at least two (2) weeks subsequent to the date of this notice and only at a public meeting called and held in accordance with Section 3-17-3, N.M.S.A. 1978. Consideration of adoption of said ordinance is currently scheduled for and will not take place prior to November 13, 2018.

/s/_____
Ann L. Mackie, Town Clerk

Oct. 10, 2018
Date