

RESOLUTION NO. 2011-28

**PROVIDING FOR THE ENCROACHMENT OF A PORTION OF
THE CANAL STREET RIGHT-OF-WAY**

WHEREAS, the Town of Silver City Community Development Department received a complete application on July 21, 2011, for an encroachment permit from Cathy Bower, of Silver City, New Mexico; and

WHEREAS, the applicant owns certain real property in the Town of Silver City, specifically described as Lots 1, 2, 3, 4, and 5 of Block 4 and Lot 2 of Block 3 of Ward Subdivision of the Townsite of Silver City, Grant County, New Mexico, and addressed as 1600 Canal Street; and

WHEREAS, the Town of Silver City Land Use Code requires a manufactured home to meet 1976 HUD Code requirements prior to being moved onto a parcel located in the Town; and

WHEREAS, the applicant owns eight single section manufactured homes on the subject property which encroach on the Canal Street right-of-way and which may not meet the 1976 HUD Code; and

WHEREAS, the applicant wishes to remove and replace, as needed, these eight manufactured homes; and

WHEREAS, in order to comply with the Town requirements to replace any of the encroaching manufactured homes, the applicant must have an encroachment permit for the existing location of the manufactured homes; and

WHEREAS, the Community Development Department and other Town staff recommend approval of the request for an Encroachment Permit for the current manufactured homes, or any permitted manufactured homes moved onto the property in replacement of the current ones, to extend onto the right-of-way in the same locations, or no closer than ten (10) feet to the non-street side edge of the sidewalk, whichever is the lesser encroachment; and

WHEREAS, the Town Council accepts such recommendation;

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

Section 1. The Town grants the applicant with an Encroachment Permit for the portion of the manufactured homes encroaching into the Canal Street right-of-way. This provision has the following conditions:

- a) No further encroachments shall occur; and
- b) The Town may require removal of all or part of any encroaching structures or uses after 90-days written notice to the property owners; and
- c) Town utility meters and access points must be accessible; and
- d) All hookups must be in compliance with Town codes; and

- e) No increase in the number of manufactured homes will be allowed on the property as a result of the encroachment; and
- f) Any manufactured home moved onto the property to replace a current one must meet all Town codes and HUD standards; and
- g) Any manufactured homes moved onto the property in replacement of the current ones may extend onto the right-of-way no closer than ten (10) feet to the non-street side edge of the sidewalk.

Section 2. The Town retains ownership of and reaffirms its need for the entire Canal Street right-of-way.

Section 3. The Town only addresses the Town's consideration of the Canal Street right-of-way and not those of other utilities that may be entitled to use the street right-of-way.

Section 4. The Encroachment Permit meets all criteria required in section 6.3.9 of the Land Use and Zoning Code of 2010 based on the following Findings:

Findings

1. The requested permit conforms to the Town's Comprehensive Plan, the Land Use and Zoning Code, and any relevant policies adopted by the Town, and
2. The proposed encroachment does not endanger the health, safety or general welfare of the community, and
3. The proposed encroachment is the minimum necessary to make reasonable use of the applicant's property.

PASSED, APPROVED AND ADOPTED this 23rd day of August, 2011.

(Seal)

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk