

**NOTICE OF INTENT**

**TO ADOPT AN ORDINANCE AMENDING CHAPTER 2 (ADMINISTRATION), ARTICLE II (ELECTIONS), DIVISION 1 (GENERALLY), SECTION 2-25 (VACANCIES ON THE TOWN COUNCIL), DIVISION 2 (DISTRICTS), SECTION 2-49 (PURPOSE) AND SECTIONS 2-51 THROUGH 2-78, AND ARTICLE III (COUNCIL), SECTION 2-79 (ELECTION OF PRESIDENT PRO TEMPORE), OF THE MUNICIPAL CODE OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, TO COMPLY WITH THE LOCAL ELECTION ACT, NMSA 1978, § 1-22-1, et seq.**

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

**ORDINANCE NO. 1308**

**AN ORDINANCE AMENDING CHAPTER 2 (ADMINISTRATION), ARTICLE II (ELECTIONS), DIVISION 1 (GENERALLY), SECTION 2-25 (VACANCIES ON THE TOWN COUNCIL), DIVISION 2 (DISTRICTS), SECTION 2-49 (PURPOSE) AND SECTIONS 2-51 THROUGH 2-78, AND ARTICLE III (COUNCIL), SECTION 2-79 (ELECTION OF PRESIDENT PRO TEMPORE), OF THE MUNICIPAL CODE OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, TO COMPLY WITH THE LOCAL ELECTION ACT, NMSA 1978, § 1-22-1, et seq.**

**Sponsored by Councilor Lynda Aiman-Smith**

**WHEREAS**, in 2019 the state legislature adopted the Local Election Act, NMSA 1978, § 1-22-1, et seq. (the “Act”), and NMSA 1978, § 1-22-3.2 (A) of the Act specifically states: “Election provisions or procedures in an ordinance or charter of a municipality that conflict with the Election Code or other applicable state or federal law are not operable and shall not be enforced.”; and

**WHEREAS**, on June 8, 2021, in Ordinance 1302, the town council adopted the Local Election Act as the Town’s election ordinance; and

**WHEREAS**, state statute NMSA 1978, § 3-11-2, provides that in case of a vacancy in the office of mayor, then “the governing body shall appoint by majority vote a qualified elector to fill the vacancy for the unexpired term of office.”; and

**WHEREAS**, Section 2-25 of the current code of ordinances of the town provides that if a vacancy occurs in the office of mayor, then the mayor pro tem shall serve until the next regular local election, at which time a qualified elector shall be elected to serve the remaining term, if any.

**WHEREAS**, the provision contained in Ordinance 2-25 concerning the vacancy of the position of mayor has been carried over from previous ordinances and conflicts with the Act; and

**WHEREAS**, other town election ordinances as specified herein also require amendment in order to comply with and conform to the Local Election Act; and

**WHEREAS**, the Town Council finds that amending town election ordinances in order to comply with state statute NMSA 1978, § 3-11-2 and the Local Election Act is appropriate for the health, safety and welfare of the Town and its inhabitants;

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

1. Chapter 2, Article II, Division 1, Section 2-25, is now amended to read as follows:

**Sec. 2-25. Town council and mayor vacancies.**

Any vacancy on the Town Council shall be filled by appointment of a qualified elector by the Mayor, with the advice and consent of the Town Council. Any qualified elector so appointed to fill such vacancy shall serve until the next Regular Local Election, at which time a qualified elector shall be elected to fill the remaining unexpired term, if any. In case of the death, disability, resignation, or change of residence from the town, of the mayor, the governing body shall appoint by majority vote a qualified elector to fill the vacancy for the unexpired term of office.

2. Chapter 2, Article II, Division 2, Section 2-49, is now amended to read as follows:

**Sec. 2-49. - Purpose.**

The purpose of this division is to establish single-member districts for election of councilors and to adopt rules and regulations to implement elections by district, as authorized in NMSA 1978, § 3-12-1.1, and article III, section 25 of the town Charter.

3. Chapter 2, Article II, Division 2, Sections 2-51 through 2-59, as currently written, are deleted in their entirety due to being superseded by provisions of the Local Election Act.

4. Two new sections, Chapter 2, Article II, Division 2, Sections 2-51 and 2-52, are now added and inserted to read as follows:

**Sec. 2-51. - Election notification to determine local government positions.**

Pursuant in NMSA 1978, § 1-22-4 (A), between one hundred twenty and one hundred fifty days before the next Regular Local Election, the governing body of the town shall notify the county clerk of Grant County, New Mexico, by resolution or other sufficient written means, of all local government positions that are to be filled at the next Regular Local Election.

**Sec. 2-52. - Plurality of votes cast required for election.**

Pursuant to Article III, Section 21 of the town Charter, and Article 7, Section 5 (C) of the Constitution of New Mexico, the candidate that receives the most votes for the office shall be declared elected to that office, for the term designated. Each candidate for the position of councilor shall only receive votes cast for such candidate by the resident qualified electors of the election district from which that candidate is running.

5. The following sections, being sections 2-53 through 2-78 are now reserved, to read as follows:

**Secs. 2-53—2-78. - Reserved.**

6. Chapter 2, Article III, Section 2-79, is amended to now read as follows:

**Sec. 2-79. - Election of president pro tempore.**

The town council, consisting of the newly elected and qualified officers, and the officers whose terms have not expired, or whose successors have not been elected and qualified, shall on the occasion of the first regular meeting in January following the Regular Local Election choose by majority vote from their number a president pro tempore, who shall hold said office until the next Regular Local Election of town officers and who shall preside at the council meetings in the absence of the mayor.

**PASSED, ADOPTED AND APPROVED** by vote of the Council of the Town of Silver City, Grant County, New Mexico, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

TOWN OF SILVER CITY

(Seal)

\_\_\_\_\_  
Ken Ladner, Mayor

ATTEST:

\_\_\_\_\_  
Alfred Sedillo, 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 December 14, 2021.

/s/ \_\_\_\_\_  
Alfred Sedillo, Town Clerk

November 23, 2021  
Date