CITY of ALBUQUERQUE
NINETEENTH COUNCIL

COUNCIL BILL NO. _____ ENACTMENT NO. _____

SPONSORED BY:

ORDINANCE

PROCLAIMING HAZARDOUS FIRE CONDITIONS AND SEVERE DROUGHT CONDITIONS IN THE CITY OF ALBUQUERQUE THAT ENDANGER THE HEALTH SAFETY AND WELFARE OF THE CITIZENS; IMPOSING RESTRICTIONS AND ESTABLISHING PENALTIES ON THE USE OF FIREWORKS WITHIN THE CITY OF ALBUQUERQUE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. FINDINGS. The Council finds:

A. The Council has held a hearing pursuant to Section 60-2C-8.1, NMSA 1978 and determined that fireworks restrictions should be imposed within the City of Albuquerque based on current drought indices published by the National Weather Service and the findings that follow.

B. The City has not had any measurable precipitation over 70 days as measured by the National Weather Service rain gauge located at the Albuquerque International Airport "Sunport".

C. The National Weather Service has recorded significant precipitation deficits at the Sunport as measured from October, 2010 through March, 2011, a departure of -1.67 inches from normal.

D. The National Weather Service has declared severe drought conditions exist throughout Central New Mexico to include the Albuquerque area.

E. The United States Forest Service has, as of April 6, 2011, imposed "Stage I" fire restrictions in the Cibola National Forest – Sandia Ranger

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District, and predicts limited precipitation and "above normal" temperature for the upcoming months of May, June and July.

F. The affected drought area consists of all areas within the municipal boundaries of the City of Albuquerque and includes all lands for which the City has assumed control or management by lease, easement, or legal agreement.

G. The rapidly escalating danger of range fires, grass fires, forest fires and structure fires is high in and around the City, and the probability of ignition of materials likely to serve as fuel for fire is presently extremely high in and around the City.

H. In recent months, the City of Albuquerque Fire Department has responded to wildland fires in the City.

I. Should the City experience a fire that burns out of control in the Bosque or other open space areas, the flora and fauna in those protected areas are at great risk of sustaining devastating loss and/or destruction.

J. Should the City experience a fire that burns out of control in populated areas, it may be necessary to evacuate and relocate affected residents.

K. The 4th of July weekend presents a greatly increased fire risk because of the widespread use of fireworks.

L. Pursuant to Section 60-2C-1 et seq., NMSA 1978, as amended, the governing body of a municipality is authorized to ban the use of all fireworks within the boundaries of the municipality that are ground audible devices or aerial devices, including but not limited to aerial spinners, helicopters, missile type rockets, and stick type rockets.

M. The governing body of a municipality is authorized to ban the use of all fireworks in wildlands pursuant to Section 60-2C-8.1, NMSA 1978.

N. Section 3-17-3A, NMSA 1978, authorizes the Mayor to declare the fire hazard in the City an emergency, because, if not addressed immediately, such fire hazard will likely result in injury or damage to persons or property and substantial financial loss in the City of Albuquerque.

Section 2. PROHIBITIONS. The Council therefore proclaims that an emergency situation currently exists within the City of Albuquerque, that the

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dry, windy conditions and high fire hazard represent a significant and immediate threat to the safety, health and welfare of the citizens of the City of Albuquerque. It is further proclaimed that severe drought conditions exist and are likely to be present throughout the months of June and July. Therefore, the following are prohibited within the City of Albuquerque for the duration of this ordinance:

A. The use of any fireworks within wildlands, as defined by Section 60-2C-2, NMSA 1978, within the City; and

B. The sale and use of missile-type rockets, helicopters, aerial spinners, stick-type rockets and ground audible devices within the municipal limits of Albuquerque.

Section 3. SEVERE DROUGHT PROHIBITIONS. The following restrictions for all fireworks not otherwise prohibited by ordinance are imposed: use of fireworks shall be limited to areas that are paved or barren or that have a readily accessible source of water for use by the homeowner or the general public.

Section 4. EXEMPTION.

Nothing within this ordinance shall prohibit public displays of fireworks as defined in Section 14-2-1 et seq. ROA 1994, so long as those displays are in strict conformance with the requirements and conditions for public displays as set forth in that ordinance and as approved by the City of Albuquerque Fire Chief.

Section 5. PENALTIES. Any individual, firm, partnership or other entity found violating this ordinance shall, upon conviction, be subject to a fine not exceeding $500 or by imprisonment not exceeding 90 days or both. Each separate violation shall constitute a separate offense and upon conviction, each day of violation shall constitute a separate offense.

Section 6. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section,

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paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 7. EMERGENCY, EFFECTIVE DATE AND TERM.

A. This ordinance deals with an emergency hereby declared by the Council and the Mayor to be an immediate danger to the public health, safety, and welfare of the City of Albuquerque. This ordinance, upon its final passage, shall be published one time by title and a general summary and shall take effect immediately after publication.

B. This ordinance shall remain in effect until the City Fire Chief determines that the fire danger has been alleviated or for a period of 30 days, whichever comes first. The Council is authorized to extend this ordinance for additional 30 day periods if such conditions continue and such restrictions are deemed necessary to protect the public health, safety and welfare of the citizens of Albuquerque.

Section 8. COMPILATION. This ordinance shall not be incorporated in and compiled as part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

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