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2    **AUTHORIZING THE FIRE CHIEF TO ISSUE FIRE RESTRICTIONS AND FIRE**  
3    **BANS AS NECESSARY; ESTABLISHING FIRE RESTRICTION STAGES AND**  
4    **PROHIBITED ACTIVITIES FOR EACH STAGE; AUTHORIZING THE FIRE CHIEF**  
5    **TO DETERMINE WHEN TO IMPOSE AND LIFT STAGES; PROVIDING FOR**  
6    **PENALTIES; AND DECLARING AN EMERGENCY.**  
7    **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**  
8    **ALBUQUERQUE:**

10       A.       The City of Albuquerque has unique wildland urban interface areas  
11 comprised of the Bosque Areas of the Rio Grande State Park, Open Space  
12 Recreational Areas and Wildland areas that consist of 28,000 acres and over  
13 100 miles of public-private border; and

17 C. The Albuquerque Fire Department responds to numerous brush and  
18 Bosque fires each year within the City, responds to fires that threaten any  
19 areas for which the Fire Department has response obligation, and provides  
20 mutual aid to surrounding communities and agencies; and

**E. The affected areas consist of all areas within the municipal boundaries of the City of Albuquerque, and all lands for which the City has assumed control or management responsibilities by lease, easement or legal agreement.**

1       Section 2.    **SHORT TITLE.**

2       This article may be cited as the “Albuquerque Fire Restriction Ordinance”.

3       Section 3.    **FIRE RESTRICTION AND BANS.**

4       A.       The Fire Chief is hereby authorized during periods of increased fire  
5 danger in the City, both seasonal and unexpected, that pose a significant and  
6 immediate threat to the safety, health and welfare of the citizens, and a  
7 significant and immediate threat to property, to issue fire restrictions and fire  
8 bans as deemed necessary. The Fire Chief shall determine such restrictions  
9 and bans based on current fire indices, fire behavior predictions, current and  
10 expected weather conditions, drought indices, human factors, ignition factors  
11 and local factors which would put undue strain on local fire agencies should a  
12 fire start.

13       B.       The Fire Chief is further authorized during periods of increased fire  
14 danger to prohibit the issuance of permits and ban all open burning and other  
15 ignition sources in all public and private outdoor areas within the municipal  
16 boundaries of the City of Albuquerque, and on all lands for which the City has  
17 assumed control or management responsibilities by lease, easement or legal  
18 agreement. Examples of such open burning and other ignition sources  
19 include but are not limited to:

- 20           1.       Open burning
- 21           2.       Bonfires
- 22           3.       Recreational fires
- 23           4.       The use of model rockets
- 24           5.       Open flame devices

25       Section 4.    **IMPOSING, AMENDING AND LIFTING FIRE BANS AND**  
26 **RESTRICTIONS.**

27       A.       A ban or stage of restriction shall be publicly declared by the Fire  
28 Chief and announced through all public and private media accessible to the  
29 Fire Chief.

30       B.       Once a ban or restrictions has been declared by the Fire Chief, it  
31 shall remain in effect until the Fire Chief determines that the increased fire  
32 danger has been alleviated.

1 C. The Fire Chief will publicly announce that a ban or restriction has  
2 been lessened or removed using the same media used to declare the ban or  
3 restriction.

4 Section 5. FIRE RESTRICTION STAGES. The following Fire Restriction  
5 Stages are established for all Open Space Areas in the municipal boundaries  
6 of the City of Albuquerque. Increased fire restrictions shall be determined by  
7 the Fire Chief and shall be based upon current fire indices, fire behavior  
8 predictions, current and expected weather conditions, drought indices, human  
9 factors, ignition factors and local factors that would cause undue strain on  
10 local fire agencies in the event of a fire.

11 A. STAGE I FIRE RESTRICTIONS. The goal of Stage I Restrictions is to  
12 prevent the start of wildfires based on human activities that are known to be  
13 high risk. Based on climate and fuel conditions in the Albuquerque area,  
14 Stage I Restrictions shall be in effect at all times within all Open Space Areas  
15 as defined herein.

16 B. STAGE II FIRE RESTRICTIONS. Stage II Restrictions will be  
17 imposed when the threat of fire danger increases from conditions requiring  
18 Stage I Restrictions. This stage intensifies the restrictions from Stage I by  
19 focusing on activities that, although normally managed under permit or  
20 contract, have a relatively high risk of causing a fire to start. Stage II  
21 Restrictions limit the activities of contractors, permittees and other wildlands  
22 users in Open Space Areas. The costs and benefits of imposing Stage II  
23 Restrictions upon such contractors, permittees and wildlands users and the  
24 general public will be taken into account by the Fire Chief prior to determining  
25 to impose Stage II Restrictions.

26 C. STAGE III CLOSURE. Stage III results in the closure of specific Open  
27 Space Areas. This Stage will be implemented when ongoing emergencies  
28 pose a risk to the health and welfare of the public or when the ability to  
29 mitigate risks using Stage I or II Restrictions is no longer viable. The need to  
30 protect the public at this stage outweighs the impacts of implementing a  
31 partial or complete closure.

32 Section 5. PROHIBITED ACTIVITIES.

- 1       A.     **STAGE I.**     The following activities are prohibited in Open Space  
2     Areas as defined herein while Stage I Restrictions are in effect:
- 3       1.     Building, maintaining, attending or using a fire, open flame, campfire  
4     or stove fire except within a developed recreation site.
- 5       2.     Smoking, except within an enclosed vehicle.
- 6       3.     Possessing, discharging or using any kind of fireworks or other  
7     pyrotechnic device.
- 8       4.     Possessing or operating a motor vehicle off any publicly designated  
9     roadway, except when parking in developed parking lots or at developed  
10    trailheads unless otherwise authorized by a recognized government agency  
11    having such authority.
- 12      5.     Operating a chainsaw or other equipment powered by an internal  
13    combustion engine unless otherwise authorized by a recognized government  
14    agency having such authority.
- 15      6.     Operating any piece of spark-emitting equipment unless otherwise  
16    authorized by a recognized government agency having such authority.
- 17      7.     Operating any internal or external combustion engine unless  
18    otherwise authorized by a recognized government agency having such  
19    authority.
- 20      8.     Welding, or operating an acetylene or other torch with an open flame  
21    unless otherwise authorized by a recognized government agency having such  
22    authority.
- 23      9.     Camping or overnight stay.
- 24     **B.**     **STAGE II.**    The following activities are prohibited in Open Space  
25    Areas as defined herein while Stage II Restrictions are in effect:
- 26      1.     Building, maintaining, attending or using a fire, open flame, campfire  
27    or stove fire.
- 28      2.     Smoking.
- 29      3.     Possessing, discharging or using any kind of fireworks or other  
30    pyrotechnic device.
- 31      4.     Possessing or using a motor vehicle off any publicly designated  
32    roadways, except when parking in developed parking lots or at developed  
33    trailheads.

- 1        5.        Operating a chainsaw or other equipment powered by an internal
- 2 combustion engine.
- 3        6.        Operating any piece of spark-emitting equipment.
- 4        7.        Operating any internal or external combustion engine.
- 5        8.        Welding, or operating an acetylene or other torch with an open flame.
- 6        9.        Camping or overnight stay.
- 7        C.        STAGE III CLOSURE. While Stage III Closure is in effect for any or
- 8 all Open Space Areas as defined herein, it shall be prohibited to enter into or
- 9 be upon the restricted area.

10        Section 6.    DEFINITIONS. For the purposes of this ordinance, the

11 following definitions shall apply.

12        BONFIRE.    An outdoor fire used for ceremonial purposes.

13        BOSQUE or BOSQUE AREAS. The cottonwood corridor adjacent to and on

14 either side of the Rio Grande.

15        FIRE CHIEF. The chief officer of the Albuquerque Fire Department.

16        OPEN BURNING. The burning of materials wherein products of

17 combustion are emitted directly into the ambient air without passing through a

18 stack or chimney from an enclosed chamber. Open burning does not include

19 road flares, smudgepots and similar devices associated with safety or

20 occupational uses typically considered open flames, recreational fires or use

21 of portable outdoor fireplaces. For the purpose of this definition, a chamber

22 shall be regarded as enclosed when, during the time combustion occurs, only

23 apertures, ducts, stacks, flues or chimneys necessary to provide combustion

24 air and permit the escape of exhaust gas are open.

25        OPEN SPACE AREAS. Includes those lands zoned or designated as open

26 space in the City's adopted Plan for Major Public Open Space and acquired by

27 the City; Bosque or Bosque Areas; the Rio Grande State Park; Wildlands

28 Areas and wildlands/urban interface areas; major named arroyos; lined or

29 unlined drain-ways; retention dams and retention pond areas and abutting

30 rights-of-way or easements which have been publicly acquired; and any open

31 lands for which the City has assumed control or management responsibility

32 by lease, easement, or legal agreement.

1        **RECREATIONAL FIRE.** An outdoor fire burning materials other than  
2 rubbish where the fuel being burned is not contained in an incinerator,  
3 outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit  
4 and has a total fuel area of 3 feet or less in diameter and 2 feet or less in  
5 height for pleasure, religious, ceremonial, cooking, warmth or similar  
6 purposes.

7        **RIO GRANDE STATE PARK.** The park area established in the Rio Grande  
8 Valley State Park Act that has boundaries defined in Section 16-4-12 NMSA  
9 1978 and is under the management of the City of Albuquerque pursuant to the  
10 Rio Grande Valley State Park Act.

11       **WILDLANDS AREAS.** The lands owned by the City that are designated for  
12 public recreational purposes and that are covered wholly or in part by timber,  
13 brush or native grasses.

14       **Section 7. EXEMPTIONS.**

15       This ordinance shall not apply to any federal, state, or local public safety  
16 officer, or member of an organized rescue or firefighting force in the  
17 performance of an official duty.

18       **Section 8. ENFORCEMENT.**

19       The Fire Chief or his designees and the Albuquerque Police Department's  
20 Open Space Officers shall enforce the "Albuquerque Fire Restriction  
21 Ordinance."

22       **Section 9. PENALTIES.**

23       Any person convicted of violating any provision of this ordinance or failing  
24 or neglecting to comply with any orders issued pursuant to any section  
25 thereof shall be deemed guilty of a petty misdemeanor and such person shall  
26 be guilty of a separate offense for each and every day or portion thereof  
27 during which any such violation is continued or permitted. Upon conviction,  
28 each such violation shall be punishable by a fine of not more than five  
29 hundred dollars (\$500) or by imprisonment for not more than ninety (90) days,  
30 or by both such fine and imprisonment.

31       **Section 10. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,  
32 clause, word or phrase of this ordinance is for any reason held to be invalid or  
33 unenforceable by any court of competent jurisdiction, such decision shall not

1 affect the validity of the remaining provisions of this ordinance. The Council  
2 hereby declares that it would have passed this ordinance and each section,  
3 paragraph, sentence, clause, word or phrase thereof irrespective of any  
4 provision being declared unconstitutional or otherwise invalid.

5 Section 11. **COMPILATION.** This ordinance shall be incorporated in and  
6 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

7 Section 12. **EMERGENCY CLAUSE AND EFFECTIVE DATE.** This  
8 ordinance is passed and approved as an emergency measure and shall take  
9 effect immediately after publication by title and general summary.

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