

CITY of ALBUQUERQUE

NINETEENTH COUNCIL

COUNCIL BILL NO. O-11-58 ENACTMENT NO. _____

SPONSORED BY: Trudy Jones

1 **ORDINANCE**

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:**

9 **Section 1. FINDINGS. The City Council finds:**

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**

14 **B. There are numerous days each year, due to high winds, lack of**
15 **precipitation and low humidity when the fire danger throughout Albuquerque**
16 **is high; 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**

21 **D. Should a fire occur during times of high fire danger, it may be**
22 **necessary to evacuate and relocate residents of the City; and**

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

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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 or owned by the City of Albuquerque. Increased
7 fire restrictions shall be determined by the Fire Chief and shall be based upon
8 current fire indices, fire behavior predictions, current and expected weather
9 conditions, drought indices, human factors, ignition factors and local factors
10 that would cause undue strain on 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 unless a more restrictive Stage has been imposed.

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 6. 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 7. 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 8. 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 9. 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 10. 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 11. 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 12. COMPILATION. This ordinance shall be incorporated in and
6 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

7 Section 13. 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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