

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. O-12-22 ENACTMENT NO. D. 2012. 032

SPONSORED BY: Trudy Jones

ORDINANCE

PROHIBITING THE SALE AND USE OF CERTAIN FIREWORKS PURSUANT TO SECTION 60-2C-7 NMSA 1978; PROHIBITING THE USE OF ANY FIREWORKS IN OPEN SPACE AREAS, INCLUDING THE BOSQUE; ESTABLISHING PENALTIES FOR THE SALE OR USE OF SUCH FIREWORKS WITHIN THE CITY OF ALBUQUERQUE.

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

Section 1. FINDINGS. The Council finds:

A. Pursuant to Section 60-2C-7 NMSA 1978, Permissible Fireworks, a municipality may regulate or prohibit the sale and use of fireworks known as aerial devices and ground audible devices.

B. Fireworks that are considered "safe and sane" are those that do not fly or explode. Aerial devices and ground audible devices are not "safe and sane" firework devices. Once ignited, aerial devices (aerial shell kit-reloadable tubes, aerial spinners, helicopters, mines, missile-type rockets, multiple tube devices, roman candles, shells, and stick-type rockets) take an unpredictable flight pattern, and pose a significant fire hazard to vegetation and structures. They also possess a considerable injury potential to the user and general public. Ground audible devices (chasers and fire crackers) are disturbing to the public peace and possess a considerable injury potential to the user and general public.

C. 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.

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

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

6 Section 2. PROHIBITIONS. The following acts are prohibited within the
7 City of Albuquerque:

8 A. The sale and/or use of aerial devices within the municipal limits of
9 Albuquerque. Aerial devices are defined as: aerial shell kit-reloadable tubes,
10 aerial spinners, helicopters, mines, missile-type rockets, multiple tube
11 devices, roman candles, shells, and stick-type rockets;

12 B. The sale and/or use of ground audible devices within the municipal
13 limits of Albuquerque. Ground audible devices are defined as: chasers and
14 fire crackers; and

15 C. The use of any fireworks within Open Space Areas as defined in the
16 Albuquerque Fire Restriction Ordinance, Sections 9-19-1 et seq. ROA 1994.

17 Section 3. USE OF PERMISSIBLE FIREWORKS. The use of any
18 permissible fireworks not prohibited by this ordinance should be confined to
19 areas that are paved or barren or that have a readily accessible source of
20 water for use by the homeowner or the general public.

21 Section 4. EXEMPTION.

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

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

32 Section 6. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
33 clause, word or phrase of this ordinance is for any reason held to be invalid or

1 unenforceable by any court of competent jurisdiction, such decision shall not
2 affect the validity of the remaining provisions of this ordinance. The Council
3 hereby declares that it would have passed this ordinance and each section,
4 paragraph, sentence, clause, word or phrase thereof irrespective of any
5 provision being declared unconstitutional or otherwise invalid.

6 Section 7. COMPILATION. This ordinance shall be incorporated in and
7 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

8 Section 8. EFFECTIVE DATE. This ordinance shall take effect five days
9 after publication by title and general summary.

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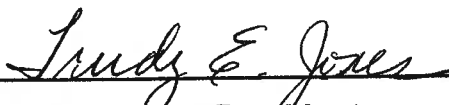
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1 PASSED AND ADOPTED THIS 4th DAY OF June, 2012
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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5 Excused: Winter

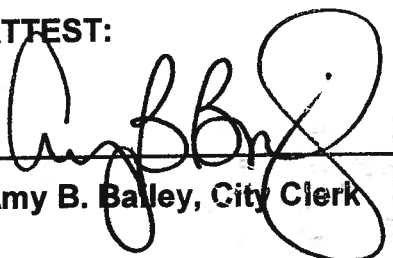
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9 Trudy E. Jones, President
10 City Council

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13 APPROVED THIS 12th DAY OF June, 2012
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16 Bill No. O-12-22

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19 Richard J. Berry, Mayor
20 City of Albuquerque
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24 ATTEST:

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27 Amy B. Bailey, City Clerk
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