

CITY of ALBUQUERQUE

TWENTIETH COUNCIL

COUNCIL BILL NO. R-13-185 ENACTMENT NO. _____

SPONSORED BY: Trudy E. Jones

1 RESOLUTION

2 PROCLAIMING HAZARDOUS FIRE CONDITIONS AND SEVERE DROUGHT
3 CONDITIONS IN THE CITY OF ALBUQUERQUE THAT ENDANGER THE
4 HEALTH SAFETY AND WELFARE OF THE CITIZENS; IMPOSING
5 RESTRICTIONS ON THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF
6 ALBUQUERQUE.

7 WHEREAS, the Council has held a hearing pursuant to Section 60-2C-8.1,
8 NMSA 1978 and determined that fireworks restrictions should be imposed
9 within the City of Albuquerque based on current drought indices published by
10 the National Weather Service; and

11 WHEREAS, the City has had less than one inch of measureable
12 precipitation since October 1, 2012 as measured by the National Weather
13 Service rain gauge located in Albuquerque; and

14 WHEREAS, the National Weather Service has recorded significant
15 precipitation deficits at its rain gauge location; and

16 WHEREAS, the National Weather Service has declared that severe drought
17 conditions exist throughout Central New Mexico including the Albuquerque
18 area; and

19 WHEREAS, the United States Forest Service has, as of May 13, 2013,
20 imposed "Stage II" fire restrictions in the Cibola National Forest – Sandia
21 Ranger District, and predicts limited precipitation for the upcoming months of
22 June and July.

23 WHEREAS, the affected drought area consists of all areas within the
24 municipal boundaries of the City of Albuquerque and includes all lands for
25 which the City has assumed control or management by lease, easement, or
26 legal agreement; and

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1 WHEREAS, the rapidly escalating danger of range fires, grass fires, forest
2 fires and structure fires is high in and around the City, and the probability of
3 ignition of materials likely to serve as fuel for fire is presently extremely high
4 in and around the City; and

5 WHEREAS, in recent months, the City of Albuquerque Fire Department has
6 responded to Wildland fires in the City; and

7 WHEREAS, the 4th of July weekend presents a greatly increased fire risk
8 because of the widespread use of fireworks; and

9 WHEREAS, pursuant to Sections 60-2C-8.1 NMSA 1978, as amended, and
10 Sections 9-20-1 et seq. ROA 1994, the City Council is authorized to ban the use
11 of all fireworks within the boundaries of the municipality that are ground
12 audible devices, including chasers and fire crackers, or aerial devices,
13 including but not limited to aerial shell kit-reloadable tubes, aerial spinners,
14 helicopters, mines, missile-type rockets, multiple tube devices, roman
15 candles, shells, and stick-type rockets, and is authorized to ban the use of all
16 fireworks in Wildlands and Open Space Areas; and

17 WHEREAS, Sections 60-2C-1 et seq., NMSA 1978 and Section 9-20-3 ROA
18 1994 authorize the City Council to limit the use of any permissible fireworks to
19 only those areas that are paved or barren or that have a readily accessible
20 source of water for use by the homeowner or the general public.

21 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
22 ALBUQUERQUE:

23 Section 1. PROHIBITIONS. The Council therefore proclaims that an
24 emergency situation currently exists within the City of Albuquerque, that the
25 dry, windy conditions and high fire hazard represent a significant and
26 immediate threat to the safety, health and welfare of the citizens of the City of
27 Albuquerque. It is further proclaimed that severe drought conditions exist and
28 are likely to be present throughout the months of June and July. Therefore,
29 pursuant to this proclamation and Sections 9-20-1 ROA 1994, the following are
30 prohibited within the City of Albuquerque:

31 A. The use of any fireworks within Wildlands, as defined by Section 60-
32 2C-2, NMSA 1978, and in Open Space Areas as defined by Section 9-19-7 ROA
33 1994; and

1 B. The sale and use, within the municipal limits of Albuquerque, of
2 ground audible devices and aerial devices.

3 Section 2. RESTRICTIONS. The following restrictions for all fireworks
4 not otherwise prohibited are imposed: use of permissible fireworks shall be
5 limited to areas that are paved or barren or that have a readily accessible
6 source of water for use by the homeowner or the general public.

7 Section 3. EXEMPTION.

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

13 Section 4. NOTICE OF PENALTIES. Any individual, firm, partnership or
14 other entity found violating Sections 9-20-1 et seq., ROA 1994 shall upon
15 conviction, be subject to a fine not exceeding \$500 or by imprisonment not
16 exceeding 90 days or both. Each separate violation shall constitute a separate
17 offense and upon conviction, each day of violation shall constitute a separate
18 offense.

19 Section 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
20 clause, word or phrase of this resolution is for any reason held to be invalid or
21 unenforceable by any court of competent jurisdiction, such decision shall not
22 affect the validity of the remaining provisions of this resolution. The Council
23 hereby declares that it would have passed this resolution and each section,
24 paragraph, sentence, clause, word or phrase thereof irrespective of any
25 provision being declared unconstitutional or otherwise invalid.

26 Section 6. EFFECTIVE DATE AND TERM.

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

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