



Legislation Text

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CITY of ALBUQUERQUE
TWENTIETH COUNCIL

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

SPONSORED BY: Trudy E. Jones

RESOLUTION

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 On The Sale Or Use Of Fireworks Within The City Of Albuquerque (Jones)

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 ON THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF ALBUQUERQUE.

WHEREAS, 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

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

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

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

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

WHEREAS, 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; and

WHEREAS, 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; and

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

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

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

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

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

Section 1. PROHIBITIONS. The Council therefore proclaims that an emergency situation currently exists within the City of Albuquerque, that the 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, pursuant to this proclamation and Sections 9-20-1 ROA 1994, the following are prohibited within the City of Albuquerque:

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

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

Section 2. RESTRICTIONS. The following restrictions for all fireworks not otherwise prohibited are imposed: use of permissible 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 3. EXEMPTION.

Nothing within this resolution 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 4. NOTICE OF PENALTIES. Any individual, firm, partnership or other entity found violating Sections 9-20-1 et seq., ROA 1994 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 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this resolution 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 resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 6. EFFECTIVE DATE AND TERM.

This resolution shall remain in effect until the City Fire Chief determines that the fire danger has been alleviated or for a period of 30 days after its effective date, whichever comes first. The Council is authorized to extend this resolution 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.

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