City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY
RESOLUTION NO. 2013-___
RESTRICTING THE SALE OR USE OF FIREWORKS AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES.

SPONSOR(S): Rivera, Calvert, Bushee, Ives, Dimas, Trujillo

SUMMARY: State law allows municipalities to adopt fireworks restrictions for 30 days at a time and no less than 20 days prior to a holiday for which fireworks may be sold. The Governing Body may adopt this resolution again at any subsequent meeting date hereafter to ensure that such fire restrictions are in place during extreme or severe drought conditions or wildland fire restrictions.

By adopting the resolution, the Governing Body will:

- Restrict the sale or use of fireworks to the maximum extent possible permitted in Section 60-2C-8.1 NMSA 1978
- Prohibit all fireworks within any lands covered wholly or in part by timber, brush or native grass
- Make an exception to the restrictions for public displays of fireworks in strict conformance with the requirements and conditions set forth in Section 12-3.3 SFCC 1987 and as approved by the city of Santa Fe fire chief.
- Prohibit the following activities, in accordance with the International Fire Code® as adopted by §12-2.1 SFCC 1987:
  - Open burning, including campfires, bonfires, pit barbecues;
  - Burning of weeds, trash, or other vegetation;
  - Using charcoal barbecue grills in public parks and recreation areas;
  - Smoking in public parks, recreation areas, or on any public trail; and
  - Using any motorized all terrain vehicle or motorcycles on city owned open space, parks, trails, or other recreational areas.
- Permit charcoal barbecuing at a residential structure if the fire is closely monitored and fire-extinguishing equipment, such as a garden hose or fire extinguisher, is readily available.

PREPARED BY: Melissa D. Byers, Legislative Liaison

DATE: May 2, 2013

ATTACHMENTS: Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2013-___

INTRODUCED BY:

Councilor Chris Rivera	Councilor Chris Calvert
Councilor Patti Bushee	Councilor Peter Ives
Councilor Bill Dimas	Councilor Ron Trujillo

A RESOLUTION

PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE AND RESTRICTING THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES.

WHEREAS, the danger of range fires, grass fires, forest fires and structure fires is very high or extremely high in and around the city of Santa Fe; and

WHEREAS, the weather in Santa Fe has been dry and windy, contributing to the present very high or extremely high fire risk, and it is predicted that the windy and dry weather will continue into the coming weeks, causing progressively worsening fire conditions; and

WHEREAS, due to low winter precipitation, United States forest service data indicates very high or extreme fire danger presently exists; and

WHEREAS, it is anticipated that drought conditions will be present for the foreseeable future; and

WHEREAS, the probability of ignition of materials likely to serve as fuel for fire is presently extremely high in the city of Santa Fe; and

WHEREAS, in recent months, the city of Santa Fe fire department has responded to wildland fires which have threatened structures and homes in the city of Santa Fe, and

WHEREAS, if the city experiences a fire that burns out of control in the watershed, 40% of the city's water resources are at serious risk of complete loss or substantially reduced capacity; and

WHEREAS, if the city experiences a fire that burns out of control in populated areas, it may be necessary to evacuate and relocate affected residents; and

WHEREAS, pursuant to N.M. Stat. Ann. Section 60-2C-8.1, the governing body of a municipality is authorized to restrict the sale or use of fireworks within the boundaries of the municipality if severe or extreme drought conditions exist.

NOW THEREFORE BE IT PROCLAIMED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. This resolution shall be deemed a proclamation within the meaning of Section 60-2C-8.1 NMSA 1978 and Section 12-3.9 SFCC 1987.

Section 2. As per Section 60-2C-8.1 NMSA 1978, the governing body has determined and declares that severe or extreme drought conditions exist within the boundaries of the city of Santa Fe based upon current drought indices published by the national weather service and other relevant information supplied by the United States forest service.

Section 3. The governing body restricts the sale or use of fireworks to the maximum extent possible permitted in Section 60-2C-8.1 NMSA 1978.

A. The sale or use of the following fireworks is specifically prohibited within the city limits:

(1) aerial devices:

(a) aerial spinners;

(b) helicopters;

(c) mines;

(d) missile-type rockets;

(e) roman candles;

(f) shells; and

(g) stick-type rockets;

(2) ground audible devices:

(a) chasers; and

(b) firecrackers.

B. All fireworks within any lands covered wholly or in part by timber, brush or native grass are prohibited.

Section 4. An exception to the above restrictions are public displays of fireworks in strict conformance with the requirements and conditions set forth in Section 12-3.3 SFCC 1987 and as approved by the city of Santa Fe fire chief.

Section 5. Pursuant to Section 12-3.9 SFCC 1987:

A. Any individual, firm, partnership or other entity found in violation of the above restrictions shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for up to ninety (90) days or a fine not to exceed five hundred dollars ($500), or both.

B. Each and every occasion on which this section is violated shall be considered a separate offense.

BE IT FURTHER RESOLVED that:

Section 1. Due to severe or extreme drought conditions and wildland fire conditions, the Governing Body hereby prohibits the following activities, in accordance with the International Fire Code® as adopted by §12-2.1 SFCC 1987:

A. Open burning, including campfires, bonfires, pit barbecues;

B. Burning of weeds, trash, or other vegetation;

C. Using charcoal barbecue grills in public parks and recreation areas;

D. Smoking in public parks, recreation areas, or on any public trail; and

E. Using any motorized all terrain vehicle or motorcycles on city owned open space, parks, trails, or other recreational areas.

Charcoal barbecuing at a residential structure is permitted if the fire is closely monitored and fire-extinguishing equipment, such as a garden hose or fire extinguisher, is readily available.

Section 2. Pursuant to Section 1-3.1 SFCC 1987:

A. Any individual, firm, partnership or other entity found in violation of the above restrictions shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for up to ninety (90) days or a fine not to exceed five hundred dollars ($500), or both.

B. Each and every occasion on which this section is violated shall be considered a separate offense.

BE IT FURTHER RESOLVED that the Governing Body recognizes that Section 60-2C-8.1 NMSA 1978 only allows municipalities to adopt fireworks restrictions for 30 days at a time and no less than 20 days prior to a holiday for which fireworks may be sold. Therefore, to ensure that there will be no lapse in the fire restrictions imposed by this resolution, the Governing Body may impose these fire restrictions at any subsequent meeting date hereafter to ensure that such fire restrictions are in place during extreme or severe drought conditions and wildland fire conditions.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2013.

_____

DAVID COSS, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

GENO ZAMORA, CITY ATTORNEY

CAO/Melissa/RESOLUTIONS 2013/Fire Restrictions2

FIR No. _____

City of Santa Fe
Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. **General Information**

(Check) Bill: _____ Resolution: X
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): **PROCLAIMING SEVERE OR EXTREME DROUGHT CONDITIONS IN THE CITY OF SANTA FE AND RESTRICTING THE SALE OR USE OF FIREWORKS WITHIN THE CITY OF SANTA FE AND PROHIBITING OTHER FIRE HAZARD ACTIVITIES.**

Sponsor(s): **Councilors Rivera, Calvert, Bushee, Ives, Trujillo, Dimas, Trujillo**

Reviewing Department(s): **City Attorney's Office**

Person Completing FIR: **Melissa D. Byers** Date: **May 2, 2013** Phone: **955-6518**

Reviewed by City Attorney: _____ Date: 5/2/13
(Signature)

Reviewed by Finance Director: _____ Date: 5/2/13
(Signature)

Section B. **Summary**
Briefly explain the purpose and major provisions of the bill/resolution.

The purpose the resolution is to establish restrictions for the sale and use of fireworks within the city limits and prohibit other fire hazard activities.

Section C. **Fiscal Impact**
Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:
a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

____X_____ Check here if no fiscal impact

Column #: 1	2	3	4	5	6	7	8
Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
Personnel*	$_____	_____	_____	$_____	_____	_____	_____
Fringe**	$_____	_____	_____	$_____	_____	_____	_____
Capital Outlay	$_____	_____	_____	$_____	_____	_____	_____
Land/ Building	$_____	_____	_____	$_____	_____	_____	_____
Professional Services	$_____	____	_____	$_____	_____	_____	_____
All Other Operating Costs	$_____	_____	_____	$_____	_____	_____	_____
Total:	$_____			$_____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

a. To indicate new revenues and/or

b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #: 1	2	3	4	5	6
Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
_____	$_____	_____	$_____	_____	_____
_____	$_____	_____	$_____	_____	_____
_____	$_____	_____	$_____	_____	_____
Total:	$_____		$_____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Not applicable

Section D. **General Narrative**

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The resolution is consistent with 60-2C-8.1 NMSA 1978 and Chapter 12 SFCC 1987, Fire Protection and Prevention.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The City will not have the authority to restrict the use of fireworks in the City limits or prohibit certain fire hazard activities.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None that staff is aware of.

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The major positive effect of adopting this resolution is that the health, safety and welfare of the residents of the city of Santa Fe will be protected by the imposition of fire restrictions.

Form adopted: 01/12/05; revised 8/24/05; 4/17/08