

1 lawful act in an unlawful, violent or tumultuous manner, which cannot be
2 controlled or stopped under existing conditions or authority.

3 (3) A natural disaster or a human-caused calamity, including but
4 not limited to flood, conflagration, cyclone, tornado, earthquake, technological
5 disruption, cyberattack or explosion occurring within or affecting property
6 within the city limits of the city which endangers life and property to such
7 extent that extraordinary measures must be taken to protect the public health,
8 safety and welfare.

9 (4) Unlawful activities, such as looting, arson, fire bombing,
10 sniping, interference with emergency vehicles, widespread criminal damage to
11 property, which in the opinion of the Mayor based upon consultation with the
12 Chief of Police cannot be controlled nor stopped under existing conditions
13 and authority without unduly further endangering life or property.

14 CURFEW. That period of time as declared by the Mayor during which no
15 person or persons shall be upon the public streets, sidewalks, grounds or
16 semi-public property either on foot or in vehicles of any type within the city,
17 except, however, that persons authorized by the Mayor by administrative order
18 shall not be subject to the curfew.

19 MAYOR. The Mayor of the city or his designated representative.

20 MOLOTOV COCKTAIL. A bottle or other type container, containing
21 gasoline or any other inflammable matter to which has been inserted or
22 attached a fuse type wick or any similar contrivance.

23 PUBLIC HEALTH EMERGENCY. An actual or imminent outbreak, or
24 reasonable threat of an actual or imminent outbreak, of any infectious disease
25 that presents a threat to the health or safety of the residents of the City, or
26 threatens to unreasonably strain the medical or emergency service resources
27 available in the City.

28 § 2-9-1-2 BOMBS OR MISSILES PROHIBITED.

29 No person shall make, carry, possess or use any type of Molotov Cocktail,
30 gasoline or any other type of bomb within the corporate limits of the city.

31 § 2-9-1-3 MAYORAL PROCLAMATION OF CIVIL EMERGENCY; EMERGENCY
32 POWERS.

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1 Whenever the Mayor shall, after consultation with the Director of the City
2 Office of Emergency Management, find that a civil emergency exists as
3 defined herein and that invocation of the extraordinary powers conferred
4 herein is necessary to ensure or to restore the public peace, he shall forthwith
5 proclaim in writing the existence of such emergency. Upon such
6 determination the Mayor is hereby empowered to invoke any or all of the
7 following provisions:

8 (A) To declare hours of curfew upon all or any portion of the city thereby
9 requiring all persons in such designated curfew areas to forthwith remove
10 themselves from the public streets, alleys, parks or other public or semi-public
11 places. The curfew shall be declared by proclamation which shall be delivered
12 to the Chief of Police, who shall see that copies thereof are delivered to all
13 news media within the city and who shall also use public address systems to
14 notify the public of said proclamation and curfew hours and warn the public
15 that violation of said curfew constitutes a misdemeanor and violators are
16 subject to arrest.

17 (B) To close any and all streets, alleys and other public ways in the city
18 to the public whenever it is necessary for the preservation of life and property
19 and the maintenance of law and order.

20 (C) Order the closing of all retail package liquor stores and outlets.

21 (D) Order the closing of all bars and other establishments selling
22 intoxicating liquor or beer by the drink.

23 (E) Order the discontinuance of selling, distributing or giving away
24 gasoline or other liquid flammable or combustible products in any container
25 other than a gasoline tank properly affixed to a motor vehicle said sale to be
26 limited to not more than one gallon per motor vehicle, or in the alternative,
27 order the closing of gasoline stations and other establishments, the chief
28 activity of which is the sale, distribution or dispensing of liquid flammable or
29 combustible products.

30 (F) Order the discontinuance of selling, distributing, dispensing or
31 giving away of any firearms or ammunition of any character whatsoever, or in
32 the alternative, order the closing of all establishments or portions thereof
33 where arms and/or ammunition are kept for sale or distribution.

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1 (G) Issue such other orders as are imminently necessary for the
2 protection of life and property.

3 § 2-9-1-4 MAYORAL PROCLAMATION OF PUBLIC HEALTH EMERGENCY;
4 EMERGENCY ORDERS.

5 Whenever the Mayor shall, after consultation with the Director of the City
6 Office of Emergency Management, find that a public health emergency exists
7 as defined herein and that invocation of the extraordinary powers conferred
8 herein is necessary to help preserve and maintain the health, safety, and
9 welfare of the general public, he shall forthwith proclaim in writing the
10 existence of such emergency. Upon such determination the Mayor is hereby
11 empowered to invoke any or all of the following provisions:

12 (A) To close any and all streets, alleys and other public ways in the city
13 to the public whenever it is necessary for the preservation of life and public
14 health and safety.

15 (B) Order retailers to limit the kinds and quantities of medical, health and
16 sanitation items that a business may sell per customer per day.

17 (C) Order the closing of places of mass assembly, including but not
18 limited to theaters, clubs, or performances intended for a public audience, and
19 athletic venues.

20 (D) Order the closing of places of institutional childcare or education
21 such as daycares, preschools, and private educational institutions.

22 (E) Order that places of private employment take reasonable measures
23 (as determined by each employer) to minimize any exposures to infectious
24 diseases or health risks to employees and customers by, for example, partial
25 or full closures, or authorizing non-essential employees to work from home or
26 take leave, or deploying social distancing protocols.

27 (F) Cancel city sponsored events and gatherings, cancel or impose
28 limitations or special protocols for the provision of City services and the use
29 of city facilities, and authorize the redistribution or rededication of city
30 resources and budgetary appropriations, not to exceed \$1,000,000 unless
31 otherwise approved by the City Council, as necessary to help address or
32 combat the proclaimed emergency.

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1 (G) Enter any agreements authorizing the use of City owned property by
2 third parties, or agreements for the City's use of non-city owned property,
3 outside of the usual requirements for City real property transactions
4 prescribed by ROA 1994 § 5-2-1 et. seq. as necessary to help address or
5 combat the proclaimed emergency.

6 (H) Issue such other orders as are imminently necessary for the
7 protection of life and property throughout the duration of the emergency,
8 including any provisions above that have not been previously invoked.

9 § 2-9-1-5 PUBLICATION OF ORDERS.

10 The Mayor shall immediately deliver a copy of the declaration and all
11 orders issued pursuant to authority contained in § 2-9-1-3 or § 2-9-1-4 to the
12 Albuquerque Police Department, Albuquerque Fire and Rescue, all major
13 media outlets serving the City, and the City Councilors. The Mayor shall also
14 post a copy of such orders to the City's website, distribute them through the
15 City's primary social media accounts, and take such additional reasonable
16 measures necessary to inform impacted persons and businesses of the
17 emergency declaration and associated emergency orders.

18 § 2-9-1-6 DURATION AND EXTENSION OF EMERGENCY PROCLAMATION.

19 (A) Any civil emergency proclaimed in accordance with the provisions of
20 §§ 2-9-1-1 et seq. shall take effect immediately, and terminate after 48 hours
21 from the issuance thereof, or may terminate sooner upon the issuance of a
22 proclamation by the Mayor determining an emergency no longer exists,
23 whichever occurs first; provided, however, that any emergency proclamation
24 may be sooner terminated by resolution of the City Council prior to the
25 termination of 48 hours or may be extended by resolution of the Council as
26 originally proclaimed or with amendments for any such additional periods of
27 time as deemed necessary by the City Council up to a maximum of ninety (90)
28 days per proclamation.

29 (B) Any public health emergency proclaimed in accordance with the
30 provisions of §§ 2-9-1-1 et seq. shall take effect immediately, and terminate
31 upon the date set forth by the proclamation, not to exceed thirty (30) days
32 from the issuance thereof, or may terminate sooner upon the issuance of a
33 proclamation by the Mayor determining an emergency no longer exists,

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1 whichever occurs first; provided, however, that any emergency proclamation
2 may be sooner terminated or amended by resolution of the City Council prior
3 to the termination of 30 days or may be extended by any resolution of the
4 Council as originally proclaimed or with amendments for any such additional
5 periods of time as deemed necessary by the City Council up to a maximum of
6 ninety (90) days per proclamation.

7 **§ 2-9-1-7 FAILURE TO OBEY.**

8 Every person remaining present at the place of any riot or unlawful
9 assembly after they have been ordered to disperse by the police or any other
10 lawful authority, or who fails to comply with any order or directive set forth
11 pursuant to this ordinance, except those public officers and persons assisting
12 them in attempting to disperse the same or comply with an order or directive
13 or administer emergency services, shall be deemed guilty of a violation of §§
14 2-9-1-1 et seq.

15 **§ 2-9-1-8 NON LIMITATION OR INTERFERENCE WITH OTHER AUTHORITY**

16 Nothing herein is intended to limit the power or authority of the Mayor with
17 respect to the control and management of City resources and facilities that
18 generally exists even outside the existence of a civil emergency. However,
19 notwithstanding the emergency powers authorized herein, closures or
20 limitations for any office or place of gathering or meeting necessary for
21 carrying out the business of the City Council may occur only by order of the
22 City Council.”

23 **SECTION 2. The City’s code of ordinances sections addressing the Office**
24 **of Emergency Preparedness is updated as follows:**

25 **“§ 2-9-2-1 OFFICE OF EMERGENCY MANAGEMENT.**

26 (A) There is hereby established under the executive branch of the
27 government of the city in accordance with Section 12-10-5 NMSA 1978, an
28 Office of Emergency Management consisting of:

29 (1) A Director of Emergency Management, appointed by and
30 responsible to the Mayor of the city.

31 (2) Such additional professional and administrative staff as may
32 be required to effectively carry out the city’s emergency management
33 programs.

1 (3) During periods of emergency, all other city officers and
2 employees, together with those forces enrolled to aid the Office of Emergency
3 Management, shall be considered as part of the Office of Emergency
4 Management.

5 (B) The purpose of the Office of Emergency Management is to
6 coordinate the efforts of all city agencies and employees, and non-
7 governmental agencies in the preparation of contingency plans for any
8 emergency endangering the lives and property of the residents of the city. It
9 shall be the duty of the Office of Emergency Management to coordinate the
10 development of plans for the effective employment of municipal resources to
11 protect the lives and health of the residents of the city, and the private and
12 public property therein from the effects of natural or human-caused disasters,
13 including any 'civil emergency' as defined within Section 2-9-1-1, above, and
14 any acts of war, and to coordinate the implementation of said plans during
15 periods of emergency. Such plans shall be coordinated with those of
16 Bernalillo County and the State Office of Emergency Preparedness.

17 § 2-9-2-2 DIRECTOR OF EMERGENCY MANAGEMENT.

18 (A) The Director shall be the executive head of the Office of Emergency
19 Management and shall be responsible to the Mayor for the organization,
20 administration, and operation of the Office of Emergency Management and all
21 of the city's emergency management programs. The Director shall coordinate
22 the city's emergency management programs with programs of like kind placed
23 into effect by the County of Bernalillo, private persons, and all
24 nongovernmental agencies, and shall act as a liaison and fully cooperate with
25 the emergency management agencies of the federal government and the State
26 of New Mexico and its political subdivisions.

27 (B) Subject to approval by the Mayor, the Director shall act for the
28 government of the city in all matters pertaining to emergency management,
29 including the obligation of such municipal funds as may be appropriated for
30 emergency management purposes.

31 (C) The Director shall prepare and submit an annual proposed budget
32 for the Office of Emergency Management expenditures to the Mayor.

1 (D) The Director shall perform such other duties as the Mayor shall
2 prescribe.”

3 SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause,
4 word or phrase of this Ordinance is for any reason held to be invalid or
5 unenforceable by any court of competent jurisdiction, such decision shall not
6 affect the validity of the remaining provisions of this Ordinance. The Council
7 hereby declares that it would have passed this Ordinance and each section,
8 paragraph, sentence, clause, word or phrase thereof irrespective of any
9 provision being declared unconstitutional or otherwise invalid.

10 SECTION 4. COMPILATION. Sections 1 and 2 of this Ordinance shall
11 amend, be incorporated in and compiled as part of the Revised Ordinances of
12 Albuquerque, New Mexico, 1994.

13 SECTION 5. EMERGENCY MEASURE; EFFECTIVE DATE. This ordinance
14 is passed and approved as an emergency measure and takes effect
15 immediately upon publication by title and general summary.

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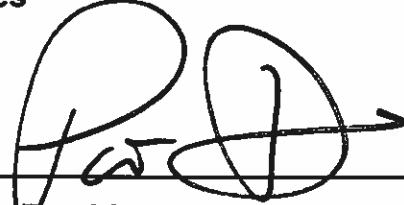
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1 PASSED AND ADOPTED THIS 16th DAY OF March, 2020
2 BY A VOTE OF: 6 FOR 3 AGAINST.

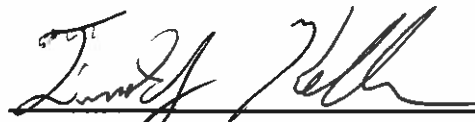
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4 For: Benton, Borrego, Davis, Gibson, Peña, Sena
5 Against: Bassan, Harris, Jones

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9 _____
10 Patrick Davis, President
11 City Council

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13 APPROVED THIS 17 DAY OF March, 2020

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17 Bill No. F/S O-20-4

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23 _____
24 Timothy M. Keller, Mayor
25 City of Albuquerque

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28 ATTEST:

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31 _____
32 Ethan Watson, City Clerk

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