

**CITY OF ELEPHANT BUTTE
RESOLUTION 19-20-116**

**A RESOLUTION DECLARING A SEVERE DROUGHT AND FIRE DANGER
EMERGENCY AND ESTABLISHING RESTRICTIONS ON ALL OPEN AND
CONTROLLED BURNING IN THE CITY OF ELEPHANT BUTTE.**

WHEREAS, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order; and,

WHEREAS, the danger of brush fires, forest fires, and structure fires are extremely high in the State of New Mexico and within the City of Elephant Butte and the surrounding jurisdictions; and,

WHEREAS, the probability of ignition of material and fire spread is extremely high in the City of Elephant Butte; and,

WHEREAS, an immediate danger to the public health, safety and welfare of the City of Elephant Butte residents has arisen due to drought and fire conditions within the City; and,

WHEREAS, it is necessary to provide and declare a moratorium on open, controlled burning, and aerial fireworks within the City of Elephant Butte.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF ELEPHANT BUTTE
COUNCIL AS FOLLOWS:**

**SECTION I
SHORT TITLE**

1.1 This Resolution shall be known as the “City of Elephant Butte 2020 Emergency Burn Moratorium Resolution”, and shall be referred to herein as “this Resolution.”

**SECTION II
AUTHORITY**

2.1 This Resolution is enacted pursuant to the authority granted to municipalities to provide for the safety and to preserve the health of the residents of the city as set forth in NMSA 1978 3-18-11.

**SECTION III
INTERPRETATION, CONFLICT AND WORD CONSTRUCTION**

3.1 INTERPRETATION & CONFLICT. The provisions herein are held to include the minimum standards necessary to carry out the purposes of this Resolution. This Resolution is not intended to interfere with, abrogate or annul any other valid ordinance. Where the provisions of this Resolution conflict with other rules, regulations, agreements or other City Resolution or resolutions, the provision of this Resolution shall be controlling. Where his Resolution imposes greater restrictions than those imposed by other rules, regulations, agreements or other City ordinances or resolutions, the provisions of this Resolution shall be controlling. Nothing in this Resolution shall preclude criminal prosecution for the violation of any law set forth in the constitution of New Mexico of by statute.

3.2 WORD CONTRUCTION. The words used in the present tense include the future tense; words in the masculine include the feminine and words in the singular include the plural.

**SECTION IV
DEFINITIONS**

4.1 AS USED IN THE EMERGENCY BURN MORATORIUM RESOLUTION

- A. Moratorium is the temporary cessation of all open burning and controlled burning within the City as defined herein;
- B. Open burning means any manner of burning where the products of combustion are emitted directly or indirectly into the open air. This shall not include a device or chamber designed and engineered for commercial purposes and manufactured commercially in accordance with required safety standards.
- C. Controlled burn shall mean any burning intentionally started/ignited for purposes related to the incineration of dead or dry grass, weeds, brush or other vegetable matter. It shall also include campfires and all other fires in open areas in the City of Elephant Butte.
- D. Agricultural burning shall mean any burning of agricultural products, by-products or agricultural refuse by a farmer engaged in the commercial production of agricultural products or by a facility, which processes agricultural products.
- E. Permissible Fireworks as used in the Fireworks Licensing and Safety Act [60-2C-1 NMSA 1978] also known as Safe and Sane Fireworks

**SECTION V
PROHIBITED ACTS**

During the term, the declared moratorium is in effect, except as stated herein, no person or entity within the City shall start, ignite or cause to be started or ignited:

- A. Any open wood fire
- B. Any Recreational Campfire
- C. Any Controlled Burn
- D. Trash Barrel Burn
- E. Non-Permissible Fireworks (All Aerial Style Fireworks)

**SECTION VI
PERMITS**

The Fire Chief of the City of Elephant Butte may issue burn permits to allow for controlled fires (Any fire that is not a campfire) between the hours of 05:00 to 10:00 am and allow for campfires at any time of the day if the conditions are determined to be safe by the Fire Chief of the City of Elephant Butte. The Fire Chief may grant or deny permits to burn based on the relative humidity, wind conditions, and fuel load of the proposed burn. The Fire Chief may also place additional conditions on any burn permit based on the relative humidity, wind conditions, fuel load of the proposed burn, and topography of the proposed burn area. The Fire Chief or his delegated representative may revoke a permit at any time if the conditions for a safe burn cease to exist.

**SECTION VII
SEVERABILITY**

If any article, section or provision of this Resolution is deemed invalid or void, the remaining portions shall not be affected and shall be enforced accordingly.


**SECTION VIII
EFFECTIVE DATE, DECLARATION OF MORATORIUM**

8.1 The City Council of the City of Elephant Butte hereby declares the emergency relating to fire condition's within the City of Elephant Butte, which is an immediate danger to the public health, safety and welfare of the City, and its residents, and the resolution shall take effect immediately upon adoption by the City Council of the City of Elephant Butte and recordation by the City Clerk as required by Statute.

PASSED, APPROVED AND ADOPTED by the City Council of Elephant Butte on this 11th day of June in a regular session, at Elephant Butte, Sierra County, New Mexico.


Edna Trager
Mayor

ATTEST:


Rani Bush
Clerk-Treasurer

