City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 13 Ordinance/Resolution# 16-236

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of June 6, 2016 (Adoption Date)

Please check box that applies to this item:

☐ QUASI JUDICIAL ☐ LEGISLATIVE ☒ ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING THE ISSUANCE OF A PROCLAMATION DECLARING SEVERE OR EXTREME DROUGHT CONDITIONS AND IMPOSING RESTRICTIONS ON THE USE OF FIREWORKS WITHIN THE CITY LIMITS.

PURPOSE(S) OF ACTION:

Issue a proclamation.

COUNCIL DISTRICT: ALL		
Drafter/Staff Contact: Ted Sweetser	**Department/Section:** Fire/Administration	**Phone:** 528-4150
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

New Mexico Statutes Annotated (NMSA) 1978 60-2C-8.1 and Las Cruces Municipal Code, Section 11-148, Drought conditions, grants authority to municipalities to regulate the sale and use of fireworks during times of severe or extreme drought. In order to enact restrictions pursuant to the statute and municipal code, City Council must first conduct a public hearing to determine if drought conditions exist and if firework restrictions should be imposed. If City Council determines there is a need for firework restrictions due to drought conditions, a proclamation must be issued and shall explain the restrictions on the sale or use of fireworks. Staff prepared a proclamation and it is attached as Exhibit "A".

Southern New Mexico, to include the City of Las Cruces, is currently facing potential severe or extreme drought conditions. These conditions can create an increased risk of damage or loss of property due to fire. The unrestricted use of permissible fireworks during these drought conditions would magnify the potential fire risk, thereby creating an emergency and threat to the health, safety and welfare of the residents of Las Cruces if firework use is not further regulated.

The proclamation must be issued no less than 20 days prior to a holiday for which fireworks may be sold. The proclamation is effective for 30 days and succeeding proclamations may be issued if conditions warrant. In the event drought conditions improve, and thereby reduce the risk associated with the sale and use of fireworks, City Council may modify or rescind the proclamation.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Proclamation.
3. Attachment "A", Las Cruces Municipal Code, Section 11-148.

SOURCE OF FUNDING:

Is this action already budgeted?			
	Yes	☐	See fund summary below
	No	☐	If No, then check one below:
N/A	*Budget Adjustment Attached*	☐	Expense reallocated from: _____
		☐	Proposed funding is from a new revenue source (i.e. grant; see details below)
		☐	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?			
	Yes	☐	Funds will be deposited into this fund: _____ in the amount of $_____for FY__.
N/A	No	☐	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will authorize the issuance of the proclamation declaring severe or extreme drought conditions and impose restrictions on the use of fireworks within the city limits.
2. Vote "No"; this will not authorize the issuance of the proclamation.
3. Vote to "Amend"; this could change the proclamation and associated restrictions based on City Council direction.
4. Vote to "Table"; this will delay taking any action until a future date. This could prevent implementation of restrictions based on NMSA 1978 60-2C-8.1 timelines.

(Continue on additional sheets as required)

REFERENCE INFORMATION:

N/A

(Continue on additional sheets as required)

City of Las Cruces®
PEOPLE HELPING PEOPLE

(9)

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____ (Ordinance First Reading Date)

For Meeting of June 6, 2016 (Adoption Date)

TITLE: A RESOLUTION AUTHORIZING THE ISSUANCE OF A PROCLAMATION DECLARING SEVERE OR EXTREME DROUGHT CONDITIONS AND IMPOSING RESTRICTIONS ON THE USE OF FIREWORKS WITHIN THE CITY LIMITS.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes ☐ No ☒

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	Ted Sweetser	528-4150	5/3/16
Department Director	Travis A. Brown	528.3473	5/3/2016
Other			
Assistant City Manager /CAO Management & Budget Manager	for Dollahon	541-2107	5-6-2016
Assistant City Manager/COO	for DArila	541-2271	5-12-16
City Attorney		EXT 2128	13 MAY 2016
City Clerk		X2115	5-13-16

Rev. 8/2011

RESOLUTION NO. 16-236

A RESOLUTION AUTHORIZING THE ISSUANCE OF A PROCLAMATION DECLARING SEVERE OR EXTREME DROUGHT CONDITIONS AND IMPOSING RESTRICTIONS ON THE USE OF FIREWORKS WITHIN THE CITY LIMITS.

The City Council is informed that:

WHEREAS, the Fire Department is responsible for fire protection within Las Cruces; and

WHEREAS, southern New Mexico, to include Las Cruces, is experiencing severe drought conditions, as issued by the National Weather Service; and

WHEREAS, these conditions have created an increased risk of damage or loss of property due to fire; and

WHEREAS, the unrestricted use of permissible fireworks during these drought conditions would magnify the potential fire risk, thereby creating an emergency and threat to the health, safety and welfare of the residents of Las Cruces; and

WHEREAS, New Mexico Statutes Annotated (NMSA) 1978 60-2C-8.1 grants authority to municipalities to regulate the sale and use of fireworks during times of severe or extreme drought; and

WHEREAS, on June 6, 2016, City Council held a public hearing and determined that severe drought conditions do exist; and

WHEREAS, on June 6, 2016, City Council passed a resolution authorizing the issuance of a proclamation which imposed additional restrictions on the use of fireworks; and

WHEREAS, on July 6, 2016, the current proclamation will expire.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the proclamation as shown in Exhibit "A", attached hereto and made part of this resolution, be issued for a period of thirty (30) days from June 6, 2016, unless a subsequent proclamation is issued by the City Council.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this ____ day of _____, 20___.

APPROVED:

_____
Mayor

ATTEST:

_____
City Clerk

(SEAL)

VOTE:
Mayor Miyagishima: _____
Councillor Gandara: _____
Councillor Smith: _____
Councillor Pedroza: _____
Councillor Eakman: _____
Councillor Sorg: _____
Councillor Levatino: _____

Moved by:_____

Seconded by:_____

APPROVED AS TO FORM:

_____
City Attorney

PROCLAMATION

WHEREAS, the City Council is the governing body of the City of Las Cruces; and

WHEREAS, the City Council has obtained information and forecasts from the National Weather Service concerning drought indices; and

WHEREAS, the Las Cruces City Council has obtained information and forecasts from the United States Forest Service concerning drought indices; and

WHEREAS, the City Council held a public hearing on June 6, 2016, to determine whether Las Cruces is affected by severe or extreme drought conditions and whether fireworks restrictions should be imposed within the municipal boundaries of the City; and

WHEREAS, the City Council made certain findings of fact based upon information provided during the public hearing and said findings are included in the resolution passed at the hearing authorizing this Proclamation; and

WHEREAS, the findings of the City Council were that Las Cruces is affected by extreme or severe drought conditions based upon current drought indices published by the National Weather Service and other information supplied by the United States Forest Service.

NOW, THEREFORE, be it Proclaimed by the governing body of Las Cruces, New Mexico:

(I)

THAT severe or extreme drought conditions exist within the municipal boundaries of Las Cruces.

(II)

THAT permissible fireworks are defined in Las Cruces Ordinance No. 2226 and do not include aerial devices, ground audible devices, stick type rockets.

(III)

THAT the governing body is authorized to limit the use of otherwise permissible fireworks, including ground and hand held sparkling devices, cone fountains, crackling devices, cylindrical fountains, flitter sparklers, ground spinner, illuminating torches, toy smoking devices and wheels, to areas within the municipal boundaries that are paved, barren, or areas that have a readily accessible source of water.

(IV)

THAT the governing body, having consulted with the state forester, is authorized to and can ban the use of all fireworks within areas that are covered wholly or in part by timber,

brush or native grass.

(V)

THAT this Proclamation is effective for a period for thirty days from this date unless a subsequent Proclamation is issued by the governing body.

APPROVED THIS 6th DAY OF JUNE, 2016

_____
Mayor

_____
Date

ATTEST:

_____
City Clerk

(SEAL)

ATTACHMENT "A"

Sec. 11-148. Drought conditions—Fireworks restrictions.

(a)

If extreme or severe drought conditions exist or potentially exist, the city council may hold a hearing and pass a resolution to issue a proclamation that would impose fireworks restrictions within the city limits.

(b)

The findings of the city council, in passing the resolution, shall be based on current drought indices published by the National Weather Service and any other relevant information supplied by the United States Forest Service.

(c)

Pursuant to the hearing, the city council shall issue a proclamation declaring extreme or severe drought conditions exist within the city limits.

(d)

The proclamation shall be issued no less than 20 days prior to a holiday for which fireworks may be sold, shall be effective for 30 days, and said proclamation may be modified or rescinded within the 30-day period by the city council upon conducting an emergency hearing to determine if weather conditions have improved.