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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 ~~manmade~~ human-caused calamity,
4 including but not limited to flood, conflagration, cyclone, tornado, earthquake
5 [technological disruption, cyberattack] or explosion occurring within or
6 affecting property within the city limits of the city which endangers life and
7 property to such extent that extraordinary measures must be taken to protect
8 the public health, 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 [~~Chief of Police~~
2 Director of the City Office of Emergency Management,] find that a civil
3 emergency exists as defined herein and that invocation of the extraordinary
4 powers conferred herein is necessary to ensure or to restore the public peace,
5 he shall forthwith proclaim in writing the existence of such emergency. Upon
6 such 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 [throughout the duration of the emergency,
3 including any provisions above that have not been previously invoked].

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

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

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

16 (B) Order retailers to limit the kinds and quantities of items that a
17 business may sell per customer per day.

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

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

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

28 (F) Cancel city sponsored events and gatherings, cancel or impose
29 limitations or special protocols for the provision of City services and the use
30 of city facilities, and authorize the redistribution or rededication of city
31 resources and budgetary appropriations 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 ROA 1994 § 5-2-1 et. seq. as necessary to help address or combat
5 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-[4][5] PUBLICATION OF ORDERS.

10 ~~[All~~ 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]
12 ~~[regulating or prohibiting the conduct of business shall be immediately~~
13 ~~delivered]~~ to the [Albuquerque] Police Department [who shall forthwith,
14 Albuquerque Fire and Rescue, all major media outlets serving the City, and the
15 President of the City Council. The Mayor shall also post a copy of such orders
16 to the City’s website, distribute them through the City’s primary social media
17 accounts, and take such such additional reasonable measures necessary to]
18 ~~inform [the operator or persons in charge of the business affected, advising~~
19 ~~them that failure to comply with the order constitutes a violation of §§ 2-9-1-1~~
20 ~~et seq. for which they may be arrested~~ impacted persons and businesses of
21 the emergency declaration and associated emergency orders].

22 § 2-9-1-[5][6] [DURATION AND] EXTENSION OF EMERGENCY
23 PROCLAMATION.

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

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1 [(B) Any public health emergency proclaimed in accordance with the
2 provisions of §§ 2-9-1-1 et seq. shall take effect immediately, and terminate
3 upon the date set forth by the proclamation, not to exceed thirty (30) days
4 from the issuance thereof, or may terminate sooner upon the issuance of a
5 proclamation by the Mayor determining an emergency no longer exists,
6 whichever occurs first; provided, however, that any emergency proclamation
7 may be sooner terminated or amended by resolution of the City Council prior
8 to the termination [of 30 days or may be extended by any resolution of the
9 Council as originally proclaimed or with amendments for any such additional
10 periods of time as deemed necessary by the City Council up to a maximum of
11 ninety (90) days per proclamation].

12 § 2-9-1-~~[6]~~[7] FAILURE TO OBEY.

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

20 [§ 2-9-1-8 NON LIMITATION OR INTERFERENCE WITH OTHER AUTHORITY

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

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

30 “§ 2-9-2-1 OFFICE OF EMERGENCY [PREPAREDNESS MANAGEMENT].

31 (A) There is hereby established under the executive branch of the
32 government of the city in accordance with Section 12-10-5 NMSA 1978, an
33 Office of Emergency [Preparedness Management] consisting of:

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1 (1) A ~~[Coordinator~~ Director] of Emergency ~~[Preparedness~~
2 Management], appointed by and responsible to the Mayor of the city.
3 (2) Such additional professional and administrative staff as may
4 be required to effectively carry out the city's emergency ~~[preparedness~~
5 management] programs.
6 (3) During periods of emergency, all other city officers and
7 employees, together with those forces enrolled to aid the Office of Emergency
8 ~~[Preparedness~~ Management], shall be considered as part of the Office of
9 Emergency ~~[Preparedness~~ Management].
10 (B) The purpose of the Office of Emergency ~~[Preparedness~~ Management]
11 is to coordinate the efforts of all city agencies and employees, and non-
12 governmental agencies in the preparation of contingency plans for any
13 emergency endangering the lives and property of the ~~[citizens~~ residents] of
14 the city. It shall be the duty of the Office of Emergency ~~[Preparedness~~
15 Management] to coordinate the development of plans for the effective
16 employment of municipal resources to protect the lives and health of the
17 ~~[citizens~~ residents] of the city, and the private and public property therein from
18 the effects of natural or ~~[man~~ human]-caused disasters, including ~~[any 'civil~~
19 emergency' as defined within Section 2-9-1-1, above, and any] acts of war, and
20 to coordinate the implementation of said plans during periods of emergency.
21 Such plans shall be coordinated with those of Bernalillo County and the State
22 Office of Emergency Preparedness.
23 § 2-9-2-2 ~~[COORDINATOR~~ DIRECTOR] OF EMERGENCY ~~[PREPAREDNESS~~
24 MANAGEMENT].
25 (A) The ~~[Coordinator~~ Director] shall be the executive head of the Office
26 of Emergency ~~[Preparedness~~ Management] and shall be responsible to the
27 Mayor for the organization, administration, and operation of the Office of
28 Emergency ~~[Preparedness~~ Management] and all of the city's emergency
29 ~~[preparedness~~ management] programs. The ~~[Coordinator~~ Director] shall
30 coordinate the city's emergency ~~[preparedness~~ management] programs with
31 programs of like kind placed into effect by the County of Bernalillo, private
32 ~~[citizens~~ persons], and all nongovernmental agencies, and shall act as a
33 liaison and fully cooperate with the emergency ~~[preparedness~~ management]

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1 agencies of the federal government and the State of New Mexico and its
2 political subdivisions.

3 (B) Subject to approval by the Mayor, the ~~[Coordinator~~ Director] shall act
4 for the government of the city in all matters pertaining to emergency
5 ~~[preparedness management]~~, including the obligation of such municipal funds
6 as may be appropriated for emergency ~~[preparedness management]~~ purposes.

7 (C) The ~~[Coordinator~~ Director] shall prepare and submit an annual
8 proposed budget for the Office of Emergency ~~[Preparedness Management]~~
9 expenditures to the Mayor.

10 (D) The ~~[Coordinator~~ Director] shall perform such other duties as the
11 Mayor shall prescribe.”

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

19 SECTION 4. COMPILATION. Sections 1 and 2 of this Ordinance shall
20 amend, be incorporated in and complied as part of the Revised Ordinances of
21 Albuquerque, New Mexico, 1994.

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