

CITY of ALBUQUERQUE

TWENTY THIRD COUNCIL

COUNCIL BILL NO. F/S O-18-18 ENACTMENT NO. 0-2018-032

SPONSORED BY: Cynthia D. Borrego

1 **ORDINANCE**

2 **AMENDING SECTION 9-8-99 ROA 1994 and SECTION 8-2-1-60 ROA 1994 TO**
3 **ADD OR INCREASE THE AMOUNT OF A FINE ASSOCIATED WITH A**
4 **LITTERING OFFENSE.**

5 **WHEREAS, neighborhood states have taken littering and its effect on the**
6 **environment very seriously and consequently have attached fines and/or jail**
7 **sentences for littering; and**

8 **WHEREAS, in the State of Arizona the law defines “criminal littering or**
9 **polluting” when “a person throws, places, drops or permits to be dropped on**
10 **public property or property of another that is not a lawful dump any litter,**
11 **destructive or injurious material that the person does not immediately**
12 **remove.” Littering can cost drivers and their passengers fines, plus court**
13 **costs, ranging from \$460 to \$1,000 and a charge of a class 2 misdemeanor;**
14 **and**

15 **WHEREAS, in the State of Colorado, discarding a lighted cigarette on a**
16 **public roadway can lead to a 3 to twelve month jail sentence under a class 2**
17 **misdemeanor and a substantial fine from \$250 to \$1000 and penalties for**
18 **littering range from \$150 to \$999; and**

19 **WHEREAS, litter harms our land, roadways, right of ways, water and quality**
20 **of life, and poses significant costs to all citizens to cleanup and remove; and**

21 **WHEREAS, the protection of New Mexico’s scarce water resources from**
22 **harmful toxins and pollutants such as dog waste, plastic and dye toxins, and**
23 **total undissolved suspended particulate and dissolved water particulate**
24 **matter is a priority for the state and local municipalities and their economies;**
25 **and**

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1 **WHEREAS, litter discarded in the streets and parks can travel through the**
2 **storm water system and cause harm to wildlife and humans; and**

3 **WHEREAS, litter attracts vermin and is a breeding ground for bacteria; and**

4 **WHEREAS, the biggest source of litter is cigarette butts which contain**
5 **harmful chemicals, including arsenic, that can contaminate water and soil and**
6 **can start fires if they are discarded improperly or unextinguished; and**

7 **WHEREAS, litter can create safety problems such as broken glass bottles**
8 **and metal cans that can injure people who step or fall on them; and**

9 **WHEREAS, animal and human waste left on public streets and in parks**
10 **contribute to harmful bacteria and may cause outbreaks of highly contagious**
11 **diseases, such as, Hepatitis A that attacks the human liver; and**

12 **WHEREAS, Albuquerque citizens, their children and future generations**
13 **have a right to live in a clean, safe, and healthy community; and**

14 **WHEREAS, Albuquerque’s climate and clean air are renowned throughout**
15 **the world and contribute to its beauty and distinctiveness; and**

16 **WHEREAS, the City of Albuquerque’s neighboring and natural amenities**
17 **such as public farmlands, the Rio Grande Bosque, Sandia foothills trail**
18 **systems, and the acequia waterways and storm-water canals are integral to**
19 **the population’s experience of the City and quality of life and benefit from**
20 **protection from careless disposal of waste; and**

21 **WHEREAS, Albuquerque’s citizens demonstrate respect and pride for the**
22 **beautiful and rare qualities of Albuquerque by refraining from improper trash**
23 **disposal, and thereby share the City’s unblemished and unique qualities with**
24 **visitors who channel dollars into the local economy; and**

25 **WHEREAS, Albuquerque’s environmental legacy is dependent on us all to**
26 **contribute to its preservation through community beautification projects,**
27 **recycling, illegal dumping prevention and litter control; and**

28 **WHEREAS, at the same time, the Albuquerque Weed and Anti-Litter**
29 **Ordinance is designed in part to help promote community health, safety, and**
30 **welfare and to otherwise abate or prevent the development of nuisances, to**
31 **promote community aesthetics and pride, and to prevent health and safety**
32 **risks that could result from the accumulation of weeds and litter.**

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1 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
2 ALBUQUERQUE:

3 SECTION 1. Section 9-8-99 ROA 1994, the penalty provisions of the
4 Albuquerque Weed and Anti-Litter Ordinance, is amended as follows:

5 “§ 9-8-99 PENALTY.

6 (A) Any person who violates any of the provisions of this article,
7 excluding § 9-8-32, shall be deemed guilty of a petty misdemeanor and, upon
8 conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-
9 99 of this code of ordinances to include a minimum fine of \$250. Any person
10 deemed guilty of a subsequent violation shall be subject to a minimum fine of
11 \$350 and then \$500 for each violation thereafter. Community service may be
12 imposed in lieu of or in addition to any such fine. Every violation shall be a
13 separate misdemeanor.

14 (B) Any person who violates the provisions of § 9-8-32 regarding
15 smoking tobacco product litter shall be subject to the penalty provisions set
16 forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$250.
17 Any person deemed guilty of a subsequent violation of § 9-8-32 shall be
18 subject to a minimum fine of \$500 for each violation thereafter.”

19 SECTION 2. Section 8-2-1-60 ROA 1994, the littering provision within the
20 Albuquerque Traffic Code, is amended to change the penalty for a littering
21 offense as follows:

22 “§ 8-2-1-60 LITTERING.

23 It shall be unlawful for any occupant of any motor vehicle, bicyclist,
24 pedestrian or any other person on a roadway, to dispose or discard refuse on
25 any roadway in any manner other than by placing the refuse in a receptacle
26 provided for the purpose by responsible governmental authorities. Any person
27 who violates the provisions of this section shall be subject to the penalty
28 provisions of § 9-8-99.”

29 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
30 clause, word or phrase of this ordinance is for any reason held to be invalid or
31 unenforceable by any court of competent jurisdiction, such decision shall not
32 affect the validity of the remaining provisions of this ordinance. The Council
33 hereby declares that it would have passed this ordinance and each section,

1 paragraph, sentence, clause, word or phrase thereof irrespective of any
2 provision being declared unconstitutional or otherwise invalid.

3 SECTION 4. COMPILATION. Sections 1 and 2 of this ordinance shall
4 amend, be incorporated in and made part of the Revised Ordinances of
5 Albuquerque, New Mexico, 1994.

6 SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five days
7 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 19th DAY OF November, 2018
2 BY A VOTE OF: 9 FOR 0 AGAINST.

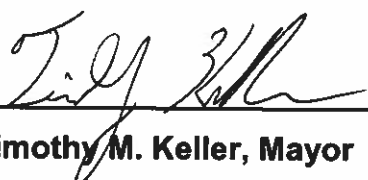
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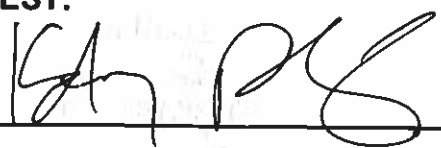
Ken Sanchez, President
City Council

APPROVED THIS 5 DAY OF December, 2018

Bill No. F/S O-18-18



Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:


Katy Duhigg, City Clerk

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