

State of Texas

§
§
§

County of Galveston

**ORDER PROHIBITING OUTDOOR BURNING IN ALL
UNINCORPORATED AREAS OF GALVESTON COUNTY, TEXAS
(OUTDOOR BURN BAN)**

On this, the 27th day of August, 2018, the Commissioners Court of Galveston County, Texas convened in a **Regularly Scheduled Meeting** with the following members present:

Mark Henry, County Judge;
Darrell A. Apffel, Commissioner, Precinct No. 1;
Joe Giusti, Commissioner, Precinct No. 2;
Stephen D. Holmes, Commissioner, Precinct No. 3;
Kenneth Clark, Commissioner, Precinct No. 4; and
Dwight D. Sullivan, County Clerk

when the following proceedings, among others, were had, to-wit:

Whereas, pursuant to Section 352.081 of the Local Government Code, the Commissioners Court by order may prohibit or restrict outdoor burning in all or part of the unincorporated area of Galveston County, Texas;

Whereas, in accordance with Section 352.081(c)(1) of the Local Government Code, the Commissioners Court is authorized to prohibit or restrict outdoor burning if the Texas Forest Service has determined that drought conditions exist in Galveston County;

Whereas, the Texas Forest Service has determined that drought conditions exist in Galveston County as evidenced by the Keetch-Byram Drought Index (KBDI);

Whereas, in accordance with Section 352.081(d) of the Local Government Code, this Order may not extend beyond the 90th day after the date of its' adoption, provided however that the Commissioners Court may adopt a subsequent order that takes effect upon the expiration of this Order; and

Whereas, in accordance with Section 352.081(e)(1) of the Local Government Code, this Order may be lifted prior to ninety (90) days if a determination is made by the Texas Forest Service that drought conditions no longer exist in Galveston County.

Now, Therefore, it is hereby ORDERED, by the Commissioners Court of Galveston County, Texas, that:

- 1.) In accordance with the authority of Section 352.081 of the Local Government Code, outdoor burning in **all unincorporated areas** of Galveston County is hereby **PROHIBITED**; as such, this Order **PROHIBITING** outdoor burning applies in any unincorporated area of Galveston County, Texas;

- 2.) This Order shall take effect immediately on and from its issuance, and shall remain in effect continuously thereafter for a period of ninety (90) days after this date of adoption, which such date of adoption is August 27, 2018, unless lifted earlier by subsequent order;
- 3.) In accordance with Section 352.081(f) of the Local Government Code, this Order shall not apply to outdoor burning activities:
 - a.) related to public health and safety that are authorized by the Texas Commission on Environmental Quality for: firefighter training; public utility, natural gas pipeline, or mining operations; or planting or harvesting of agricultural crops; or
 - b.) that are conducted by a certified and insured prescribed burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code; or
 - c.) that are conducted by the members of a prescribed burning organization under the conditions provided by Section 153.049, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code;
- 4.) In accordance with Section 352.081(h) of the Local Government Code and Section 12.23 of the Penal Code, a person commits an offense if the person knowingly or intentionally violates this Order; an offense under this Order is a Class C misdemeanor, punishable by a fine not to exceed \$500.00; and
- 5.) The County Judge of Galveston County, Texas is authorized to execute this Order on behalf of the Commissioners Court of Galveston County, Texas.

Be it FURTHER ORDERED, that the County Clerk is **ORDERED** to transmit forthwith a copy of this Order to the Sheriff, Constables, and Criminal District Attorney of Galveston County for enforcement purposes.

Upon Motion Duly Made and Seconded, the above Order is hereby **ADOPTED**, on this, the 27th day of August, 2018.

COUNTY OF GALVESTON, TEXAS,

By:



Mark Henry,
County Judge

ATTEST:

Dwight D. Sullivan,
County Clerk

By:  Deputy

Outdoor Burn Ban based on KBDI – issued August 27, 2018

Vernon's Texas Statutes and Codes Annotated
Local Government Code (Refs & Annos)
Title 11. Public Safety
Subtitle B. County Public Safety
Chapter 352. County Fire Protection
Subchapter D. Outdoor Burning

V.T.C.A., Local Government Code § 352.081

§ 352.081. Regulation of Outdoor Burning

Effective: September 1, 2015

Currentness

(a) In this section, “drought conditions” means the existence of a long-term deficit of moisture creating atypically severe conditions with increased wildfire occurrence as defined by the Texas Forest Service through the use of the Keetch-Byram Drought Index or, when that index is not available, through the use of a comparable measurement that takes into consideration the burning index, spread component, or ignition component for the particular area.

(b) On the request of the commissioners court of a county, the Texas Forest Service shall determine whether drought conditions exist in all or part of the county. The Texas Forest Service shall make available the measurement index guidelines that determine whether a particular area is in drought condition. Following a determination that drought conditions exist, the Texas Forest Service shall notify the county when drought conditions no longer exist. The Texas Forest Service may accept donations of equipment or funds as necessary to aid the Texas Forest Service in carrying out this section.

(c) The commissioners court of a county by order may prohibit or restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the unincorporated area of the county if:

(1) drought conditions have been determined to exist as provided by Subsection (b); or

(2) the commissioners court makes a finding that circumstances present in all or part of the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning.

(d) An order adopted under this section must specify the period during which outdoor burning is prohibited or restricted. The period may not extend beyond the 90th day after the date the order is adopted. A commissioners court may adopt an order under this section that takes effect on the expiration of a previous order adopted under this section.

(e) An order adopted under this section expires, as applicable, on the date:

(1) a determination is made under Subsection (b) that drought conditions no longer exist; or

(2) a determination is made by the commissioners court, or the county judge or fire marshal if designated for that purpose by the commissioners court, that the circumstances identified under Subsection (c)(2) no longer exist.

(f) This section does not apply to outdoor burning activities:

(1) related to public health and safety that are authorized by the Texas Commission on Environmental Quality for:

(A) firefighter training;

(B) public utility, natural gas pipeline, or mining operations; or

(C) planting or harvesting of agriculture crops;

(2) that are conducted by a certified and insured prescribed burn manager certified under [Section 153.048, Natural Resources Code](#), and meet the standards of [Section 153.047, Natural Resources Code](#); or

(3) that are conducted by the members of a prescribed burning organization under the conditions provided by [Section 153.049, Natural Resources Code](#), and meet the standards of [Section 153.047, Natural Resources Code](#).

(g) Any person is entitled to injunctive relief to prevent the violation or threatened violation of a prohibition or restriction established by an order adopted under this section.

(h) A person commits an offense if the person knowingly or intentionally violates a prohibition or restriction established by an order adopted under this section. An offense under this subsection is a Class C misdemeanor.

Credits

Added by Acts 1999, 76th Leg., ch. 1435, § 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1185, § 1, eff. Sept. 1, 2001. Renumbered from § 240.906 by Acts 2001, 77th Leg., ch. 1420, § 12.004, eff. Sept. 1, 2001. Amended by Acts 2011, 82nd Leg., ch. 495 (H.B. 1174), § 1, eff. June 17, 2011; Acts 2011, 82nd Leg., ch. 1341 (S.B. 1233), § 20, eff. June 17, 2011; Acts 2013, 83rd Leg., ch. 565 (S.B. 702), § 4, eff. Sept. 1, 2013; Acts 2015, 84th Leg., ch. 169 (H.B. 2119), § 2, eff. Sept. 1, 2015.

V. T. C. A., Local Government Code § 352.081, TX LOCAL GOVT § 352.081

Current through the end of the 2017 Regular and First Called Sessions of the 85th Legislature