

LOCAL GOVERNMENT CODE

TITLE 11. PUBLIC SAFETY

SUBTITLE B. COUNTY PUBLIC SAFETY

CHAPTER 352. COUNTY FIRE PROTECTION

SUBCHAPTER D. OUTDOOR BURNING

Sec. 352.081. REGULATION OF OUTDOOR BURNING. (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; or

(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.

(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.

Added by Acts 1999, 76th Leg., ch. 1435, Sec. 1, eff. Aug. 30, 1999. Amended by Acts 2001, 77th Leg., ch. 1185, Sec. 1, eff. Sept. 1, 2001. Renumbered from Sec. 240.906 by Acts 2001, 77th Leg., ch. 1420, Sec. 12.004, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 495 (H.B. [1174](#)), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. [1233](#)), Sec. 20, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 565 (S.B. [702](#)), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 169 (H.B. [2119](#)), Sec. 2, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1096 (H.B. [2053](#)), Sec. 1, eff. September 1, 2019.