

State of Texas

§

County of Galveston

§

§

**ORDER PROHIBITING OUTDOOR BURNING IN ALL
UNINCORPORATED AREAS OF GALVESTON COUNTY, TEXAS**

On this, the 4th day of October, 2011, the Commissioners' Court of Galveston County, Texas convened in a **Regularly Scheduled Meeting** with the following members present:

Mark Henry, County Judge;
Patrick F. Doyle, Commissioner, Precinct No. 1;
Kevin OBrien, 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 areas of Galveston County, Texas;

Whereas, in accordance with Section 352.081(c)(2) of the Local Government Code, the Commissioners' Court is authorized to prohibit or restrict outdoor burning upon finding that circumstances present in all or part of the unincorporated area of Galveston County create a public safety hazard that would be exacerbated by outdoor burning;

Whereas, on April 21, 2011, the Commissioners' Court found that circumstances were present in all unincorporated areas of Galveston County that were creating a public safety hazard that would be exacerbated by outdoor burning and issued an order prohibiting outdoor burning;

Whereas, on July 12, 2011, the Commissioners' Court found that circumstances remained present in all unincorporated areas of Galveston County that were creating a public safety hazard that would be exacerbated by outdoor burning and issued an order prohibiting outdoor burning which took effect immediately upon the expiration of the April 21, 2011 order and which, in accordance with Section 352.081(d) of the Local Government Code, may not extend beyond the 90th day after July 12, 2011;

Whereas, the order adopted on July 12, 2011 was adopted under Section 352.081 and expires on or about October 11, 2011;

Whereas, in accordance with Section 352.081(d) of the Local Government Code, the Commissioners' Court is authorized to adopt an order that takes effect on the expiration of a previous order adopted under Section 352.081;

Whereas, Texas has been experiencing an exceptional drought, including Galveston County, and the extremely low precipitation has led to an abundance of tall dead grass and other dead vegetation within the unincorporated areas of Galveston County and these conditions are expected to continue;

Whereas, the Fuel Dryness map published by the Texas Forest Service and the Spatial Sciences Laboratory show Galveston County as critically dry as of September 26, 2011 and forecasted to remain critically dry;

Whereas, commercial and/or residential areas are adjacent to or in close proximity to areas with an abundance of tall dead grass and other dead vegetation;

Whereas, the Commissioners' Court **FINDS** that circumstances remain present in all unincorporated areas of Galveston County that create a public safety hazard that would be exacerbated by outdoor burning; and

Whereas, in accordance with Section 352.081(e)(2) of the Local Government Code, as amended by House Bill No. 1174 during the 82nd Regular Session, this Order may be lifted prior to ninety (90) days if a determination is made by the Commissioners' Court or, if so designated, by the County Judge, that the circumstances creating a public safety hazard that would be exacerbated by outdoor burning no longer exist.

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

- 1.) In accordance with Section 352.081 of the Local Government Code, Outdoor burning in all unincorporated areas of Galveston County is and shall remain **PROHIBITED**;
- 2.) This Order shall take effect immediately upon expiration of the Outdoor Burn Ban that was issued by the Commissioners' Court on July 12, 2011 and it shall remain continuously in effect thereafter for a period of 90 days after this date of adoption, which such date of adoption is October 4, 2011, unless a subsequent order lifting this Prohibition is issued;
- 3.) In accordance with Local Government Code Section 352.081(e)(2), as amended, the Commissioners' Court hereby designates authority to the County Judge to make a determination on whether the circumstances creating a public safety hazard that would be exacerbated by outdoor burning no longer exist. As such, a subsequent order lifting this outdoor burn ban may be issued by the Commissioners' Court or by the County Judge, who is designated herein for that purpose;
- 4.) In accordance with Section 352.081(f) of the Local Government Code, this Order shall not apply to outdoor burning activities related to public health and safety that are authorized by the Texas Natural Resource Conservation Commission for: firefighter training; public utility, natural gas pipeline, or mining operations; planting or harvesting of agricultural crops; or to outdoor burning activities that are conducted by a prescribed

burn manager certified under Section 153.048, Natural Resources Code, and meet the standards of Section 153.047, Natural Resources Code;

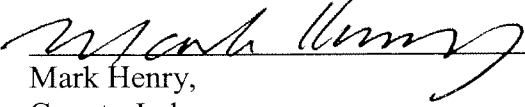
5.) In accordance with Section 352.081(h) of the Local Government Code and Section 12.23 of the Penal Code, a person commits an offense if the person knowingly or intentionally violates this Order; an offense under this Order is a Class C misdemeanor, punishable by a fine not to exceed \$500.00; and

6.) 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 4th day of October, 2011.

COUNTY OF GALVESTON, TEXAS, By:



Mark Henry,
County Judge

ATTEST:



Dwight D. Sullivan,
County Clerk



Brandy Chapman Deputy