

#### SUBCHAPTER D. OUTDOOR BURNING

§ 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-Byrom 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 commissioner's 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 commissioner's 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 commissioner's 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 commissioner's 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 commissioner's 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 Natural Resource Conservation Commission for:

- (A) Firefighter training;
- (B) Public utility, natural gas pipeline, or mining operations; or
- (C) Planting or harvesting of agriculture crops; or

(2) that is conducted by a prescribed burn manager certified under Section 153.048, Natural Resources Code, and meets 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, § 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. § 352.082. OUTDOOR BURNING OF HOUSEHOLD REFUSE IN CERTAIN RESIDENTIAL AREAS. (a) This section applies only to the unincorporated area of a county:

- (1) that is adjacent to a county with a population of 3.3 million or more; and
- (2) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property.

(b) In this section, "neighborhood" and "refuse" have the meanings assigned by Section 343.002, Health and Safety Code.

(c) A person commits an offense if the person intentionally or knowingly burns household refuse outdoors on a lot that is:

- (1) Located in a neighborhood; or
- (2) Smaller than five acres.

(d) An offense under this section is a Class C misdemeanor. On conviction of an offense under this section, the court shall require the defendant, in addition to any fine, to perform community service as provided by Section 16(e), Article 42.12, Code of Criminal Procedure.  
Added by Acts 2005, 79th Leg., ch. 904, § 2, eff. Sept. 1, 2005.