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IN THE
POTTER COUNTY COMMISSIONERS COURT
POTTER COUNTY, TEXAS

A RESOLUTION
AUTHORIZING THE ENFORCEMENT BY COUNTY PERSONNEL OF OUTDOOR
BURNING REGULATIONS ADOPTED BY THE TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION

On this the 22nd day of January, 1996, the Commissioners' Court of Potter County, Texas, convened in open session at the Courthouse of Potter County, Amarillo, Texas, with a quorum present, and among proceedings, had the following Resolution passed, by unanimous vote:

Whereas, §382.085, Texas Health & Safety Code, prohibits the emission of air contaminants, which includes smoke produced by outdoor burning; and,

Whereas, §382.018, Texas Health & Safety Code, authorizes the Texas Natural Resource Conservation Commission (TNRCC) to adopt regulations controlling and prohibiting outdoor burning; and,

Whereas, TNRCC has adopted such regulations, which appear in Title 30, Chapter 111, Texas Administrative Code; and,

Whereas, §381.114, Texas Health & Safety Code, allows a county to bring suit for injunctive relief, civil penalties, or both, to prevent a violation of §382.085 or of a commission regulation PROVIDED a county has adopted a resolution authorizing the exercise of the power; and,

Whereas, this Commissioners Court finds that it is in the best interest of the citizens of Potter County to enforce such regulations:

NOW, THEREFORE, be it resolved and ordered that effective immediately, Potter County will enforce the above statutes and regulations in regard to outdoor burning, in areas of Potter County outside the boundaries of the City of Amarillo, or any other incorporated municipality in the County, as follows:

1. No person may cause, suffer, allow, or permit any outdoor burning within the State of Texas, except as provided below. (Source: 30 Texas Administrative Code, s 111.101).

2. Exceptions to Prohibition of Outdoor Burning (Source: 30 TAC §111.103). Outdoor Burning is permitted:

(a) For burning domestic waste at a property designed for and used exclusively as a private residence, housing not more than three families, when collection of domestic waste is not provided or authorized by Potter County, when the waste is generated only from that property.

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(b) For campfires and fires used solely for recreational or ceremonial purposes, or in the noncommercial preparation of food, or used exclusively for the purpose of supplying warmth during cold weather,

(c) For the burning of trees, brush, grass, and other dry plant growth in rural areas when no practical alternative to burning exists for right-of-way maintenance, land-clearing operations, crop, and range management purposes, SUBJECT TO the provisions of Paragraph 3(a) below;

(d) When written authorization has been given by the TNRCC, pursuant to 30 TAC §111.103 (a);

(e) For the training of fire-fighting personnel, as authorized by 30 TAC §111.103 (b)(1);

(f) To destroy diseased animals when necessary to prevent the spread of disease;

(g) For burning of hydrocarbons from pipeline breaks and oil spills, pursuant to the requirements of 30 TAC §111.103 (b)(7); or,

(h) For burning of municipal solid waste, pursuant to the requirements of 30 TAC §111.103(b)(8).

3. BURNING CONDITIONS.

(a) Trees, brush, grass, and other dry plant growth may only be burned:

(1) Outside the corporate limits of a city or town unless necessary to eliminate a naturally occurring fire hazard as determined by the Potter County Volunteer Fire Department;

(2) At least 300 feet from any properties which have residential,

(3) When the wind speed is not predicted to be less than 6 miles per hour or greater than 23 miles per hour, and must be completed between 9 a.m. and 5 p.m. (Source: 30 TAC §111.105);

(b) No disposal of any material capable of igniting spontaneously is allowed except where authorized by the TNRCC.

(c) There shall be no outdoor burning of heavy oils, asphalt, synthetic rubber, or any other material producing excessive amounts of smoke. (Source: 30 TAC §111.105 (7)).

(d) No outdoor burning of any kind may be conducted when hazardous or

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nuisance conditions are created, or when outdoor burning has been prohibited pursuant to Order entered by the County Judge or County Commission.

4. The authority to conduct outdoor burning under the above conditions does not excuse the responsible person from any consequences, damages or injuries resulting from the burning.

5. ENFORCEMENT PROCEDURE.

(a) The person conducting an outdoor burn permitted by Paragraph 2 (b) through (h) must notify the Potter County Sheriff's Office Dispatcher at 806/379-2900 for placement on a daily controlled burn log.

(b) At their discretion, the Potter County Volunteer Department may contact the person to explain the rules and regulations on outdoor burning.

(c) In every case, the Potter County Volunteer Fire Department may monitor the outdoor burning for compliance with the above regulations and other statutes and regulations concerning outdoor burning not specified above.

(d) On the first violation of this Resolution, when no property damage has resulted from the violation, the Potter County Volunteer Fire Department or the Potter County Sheriff shall issue a written warning to the offender. Subsequent offenses shall be pursuant to Paragraph 6.

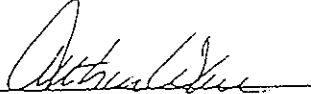
6. PENALTIES.

(a) If it appears that a violation or threat of violation of these regulations has occurred or is occurring, Potter County may bring suit for injunctive relief, civil penalties, or both against the person who committed, is committing, or is threatening to commit the violation. (Source: TEX.HEALTH & SAFETY CODE §382.114).

(b) A person who violates any provision of Paragraphs 1, 2, or 3 of this Resolution is subject to a civil penalty of not less than \$50.00 or more than \$25,000.00 for each day of violation and for each act of violation.

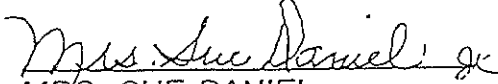
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Adopted the 22nd day of January, 1996, As Amended February 12, 1996.



ARTHUR WARE, COUNTY JUDGE

ATTEST:



MRS. SUE DANIEL
POTTER COUNTY CLERK

General Requirements for Burning

The following requirements apply to the specific situations for which they are mentioned above. Note: The party responsible for the burn remains liable for damages, injuries, or other consequences that may result from burning, even when it is carried out in compliance with these regulations. These requirements also do not exempt or excuse anyone from complying with all other applicable laws or ordinances, regulations and orders of governmental entities having jurisdiction.

Burn only outside the corporate limits of a city or town, unless the incorporated city or town has an ordinance that permits burning and is consistent with the Texas Clean Air Act.

Begin or continue burning only when wind direction and other weather conditions are such that smoke and other pollutants will not present a hazard to any public road, landing strip, or navigable water (e.g. lake, river, stream or bay) or have an adverse effect on any off-site structure containing "sensitive receptors."

Post someone to flag traffic if at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway.

Keep fires downwind of or at least 300 feet (90 meters) away from any neighboring structure that contains sensitive receptors. This requirement may be waived only with the prior written approval of whoever owns or rents the adjacent property and either resides or conducts business there.



Begin burning no earlier than one hour after sunrise, end it the same day and no later than one hour before sunset, and make sure that a responsible party is present while the burn is active and the fire is progressing. Winds must be from six to 23 miles per hour during the burn period. Burning during temperature inversions or air stagnation advisories is prohibited.

Don't burn any electrical insulation; treated lumber; plastics; construction or demolition materials not made of wood; heavy oils; asphaltic materials; potentially explosive materials; chemical wastes; or items that contain natural or synthetic rubber.

Notify the Texas Forest Service before carrying out any prescribed or controlled burns that are intended for forest management.

For complete coverage of air quality regulations as they pertain to outdoor burning, consult the website for the Texas Commission on Environmental Quality at <http://www.tceq.state.tx.us/>.

A TCEQ publication entitled Outdoor Burning in Texas explains regulations in more detail and contains the answers to commonly asked questions. It can be accessed via the Internet at http://www.tceq.state.tx.us/comm_exec/forms_pubs/pubs/rg/rg-049.html.

Texas Penal Code - Outdoor Burning Offenses

Provisions within the Texas Penal Code address escaped control burning and deliberately set wildland fires.

TITLE 7 OFFENSES AGAINST PROPERTY

CHAPTER 28 Arson, Criminal Mischief, Property Damage or Destruction

§28.04 Reckless Damage or Destruction

A person commits a crime if he recklessly allows his fire to damage or destroy someone else's property. A person acts recklessly, or is reckless, when he is aware of but consciously disregards a substantial and unjustifiable risk that his burning will escape from his control and result in damage to the property of another.

An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500.

§28.02 Arson

A person commits a violation if he starts a fire or causes an explosion with intent to destroy or damage any vegetation, fence or structure on open space land. "Open space land" means real property that is undeveloped for the purpose of human habitation.

Wildland arson is a second degree felony unless the fire results in bodily injury or death. The offense becomes a first degree felony if someone is injured or killed because of the fire.

Punishment for wildland arson includes a possible fine up to \$10,000 and confinement in the Texas Department of Criminal Justice ranging from two years to life.

Stop Arson

Report suspicious fire activity to your local law enforcement office or call the toll-free phone number shown below.

Toll-Free

Arson Hot Line

1-800-364-3470

You may be eligible for a reward up to \$2,000 if your information leads to the arrest and grand jury indictment of the person or persons responsible for arson.

Guidance

Fire Weather Watches and Warnings

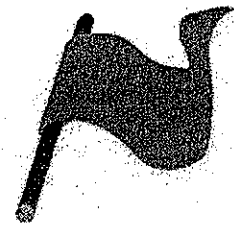
National Weather Service offices issue daily fire weather forecasts that state and federal natural resource agencies use to plan deployment of wildfire detection and firefighting resources. NWS offices also issue fire weather watches and red flag warnings when weather and fuel conditions are expected to occur that significantly increase the risks of dangerous wildfires. Typically, these are short duration events.

The Texas Forest Service will also publicize the existence of dangerous fire conditions as they occur, to increase public awareness of the danger and encourage increased attention to outdoor fire safety.

The National Weather Service will issue a "Fire Weather Watch" to alert fire control officials and the public to the possible development of Red Flag conditions in a particular area or region in the near future (up to 72 hours in advance). Red Flag Warnings are issued when expected fuel (vegetation) and weather conditions will increase the likelihood of escaped control fires and rapid rates of spread of existing wildfires.

For a Red Flag Warning to be issued, predicted afternoon and evening relative humidity levels are expected to fall to 25 percent or lower, sustained winds at 20 feet above the ground are expected to exceed 15 miles per hour for at least two hours, and high fire danger is in place.

Weather criteria for Fire Weather Watches and Red Flag Warnings across Texas will vary somewhat with each NWS warning area, based on the vegetation, topography and distance from the Gulf of Mexico.



Fire Prevention Can Cut Wildfire Load

Prevention of human-caused wildfires holds the key to a significant reduction in the number of wildfires. People and their actions cause over 90 percent of all wildfires in Texas.

Successful fire prevention efforts aimed at reducing fires caused by careless debris burning will pay the biggest dividends in reducing wildfire occurrence. Unattended burning of household trash and brush piles, with poor or no firebreaks, accounts for a majority of debris fires. Burning leaves and other yard debris and burning off garden spots and pastures also contribute significantly to the wildfire load.

Keetch-Byram Drought Index

What It Measures and Means for Firefighters

The Keetch-Byram Drought Index (KBDI) is a stand-alone index that can be used to measure the effects of seasonal drought on fire potential. The numeric value of the index is an estimate of the precipitation amount (in hundredths of inches) needed to bring the soil back to saturation. A value of "0" reflects complete saturation of the soil. The index deals with only the top 8 inches of the soil profile, so the maximum KBDI value is 800 or 8.0 inches of precipitation that would be needed to bring soil back to saturation.

As KBDI value increases, the vegetation is subjected to increased stress due to moisture deficiency. At higher values, desiccation (or wilting) occurs, and live plant material is added to the dead fuel loading on the site. Also, an increasing portion of the duff/litter layer becomes available fuel at higher KBDI index values.

KBDI values are more closely tied to fire danger during the active growing season than during the winter months, so low

dormant season KBDI values do not necessarily correspond to low fire danger. Soil moisture can be abundant during the winter, but dormant vegetation gets its moisture largely from the humidity in the air, not from the soil. Dormant grass and weeds will dry rapidly during periods of dry, windy winter weather and can become highly fire-prone, even while the underlying soil remains damp or very wet.

For an indication of how KBDI values correlate with potential fire behavior, go to the following Internet website: <http://www.tamu.edu/ticc/> and then to Predictive Services. A wealth of other fire-related information is also available.

Wildfire risk assessment personnel and fire behavior analysts look at many other fire-related factors besides KBDI – particularly during the dormant season – to determine the expected risks of wildfire ignitions and difficulty of control. Fire control leaders then have a more comprehensive picture of potential wildfire activity and behavior on which to base decisions on resource staffing and placement.

T E X A S
FOREST SERVICE

The Texas A&M University System

<http://texasforests.tamu.edu>

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