



**ORDER OF THE COMMISSIONERS COURT
PROHIBITING OUTDOOR BURNING
AND PRESCRIBING AUTHORIZED BURN CRITERIA**

WHEREAS, Section 352.081 of the Local Government Code provides that the Commissioners Court of a county, by order, may prohibit outdoor burning in the unincorporated area of the county if the Commissioners Court makes a finding that circumstances present in the unincorporated area create a public safety hazard that would be exacerbated by outdoor burning; and.

WHEREAS, the Polk County Commissioners Court does hereby find that circumstances present in the unincorporated areas of Polk County, Texas create a public safety hazard that would be exacerbated by certain outdoor burning; and

WHEREAS, Section 352.081 of the Local Government Code provides for exemptions from county burn bans for certified prescribed burn managers meeting the requirements of Natural Resources Code, Ch. 153 and the Polk County Commissioners Court believes that additional exceptions are warranted to reduce the likelihood of dangerous and uncontrolled wildfire.

BE IT THEREFORE ORDERED that the following emergency regulations are hereby established for the unincorporated areas of Polk County, Texas not subject to public ownership or stewardship for the above mentioned declaration:

(1) Actions Prohibited:

Except as described hereinafter, a person violates this order if he/she ignites, causes to ignite or allows ignition of any combustible or vegetative material outside of an enclosure which serves to contain all flames and/or sparks, or orders such burning or ignition by others.

(2) Enforcement:

(a) Under notification of suspected outdoor burning, the fire department assigned to the location of the fire shall respond to the scene and take immediate measures to contain and to extinguish the fire.

(b) If requested by a fire official, a duly-commissioned peace officer, when available, shall be sent to the scene to investigate the nature of the fire.

(c) In accordance with Section 352.081 of the Local Government Code, a person who knowingly or intentionally violates this order commits a Class C Misdemeanor, punishable by a fine up to \$500.

(d) If the responding peace officer finds that the person responsible for the fire is in violation of (1) above, a citation shall be issued for: Violation of Burn Ban Order.

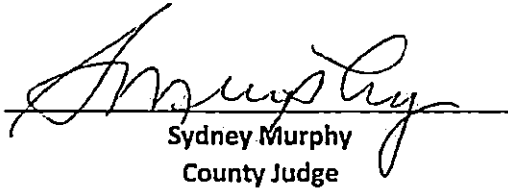
(3) Exceptions:

- (a) This order shall not apply to the outdoor burning of vegetative material caused by welding or by other causes relating to the act of welding, if such burning is not malicious or intentional.
- (b) This order shall not apply to a prescribed burn conducted by burn personnel of a federal or state agency, or an institution of higher education for prescribed burns on agency owned or managed properties, or for purposes of training local fire department personnel or prescribed burn managers.
- (c) This order shall not apply to a prescribed burn conducted for the purpose of research or demonstration by burn personnel of a federal or state agency or an institution of higher education.
- (d) This order shall not apply to burning of vegetative material when such burning is performed by an individual with appropriate training and experience in conducting burns and in accordance with a prescribed burn plan which:
 - i. addresses the useful nature of such activity as a land and natural resources management tool;
 - ii. includes appropriate safety and protective measures; and
 - iii. is submitted to and approved by the Polk County Office of Emergency Management (OEM) on the form provided by the OEM.
- (e) This order shall not prohibit other lawful burning as may be permissible by rules established by the Texas Commission on Environmental Quality.
- (f) This order shall not prohibit prescribed burning by a commercial or private prescribed burn manager certified by the Texas Department of Agriculture, or by other individual or entities exempted by Section 352.081 of the Local Government Code.

Be it also **ORDERED** that the purpose of this order is the mitigation of the public safety hazard posed by wildfires during the current disaster declaration period, by curtailing the practice of outdoor burning in the unincorporated areas of Polk County, Texas without specific approval of Polk County or without appropriate licensing from the state. This order prohibiting outdoor burning is effective as of 12:00 (noon) on April 28, 2020 and shall remain in effect for a period of ninety (90) days and shall expire at the end of said period or upon the date the Polk County Commissioners Court, by order, determines that the circumstances present in the storm impacted areas of Onalaska and Seven Oaks, Polk County, Texas no longer create a public safety hazard that would be exacerbated by outdoor burning, whichever occurs earlier.

ORDERED BY THE POLK COUNTY COMMISSIONERS COURT IN A REGULAR
MEETING HELD THIS 28th DAY OF APRIL, 2020.

Signed and entered on April 28, 2020


Sydney Murphy
County Judge

Attest:


Schelana Hock County Clerk



STATE OF TEXAS §
COUNTY OF POLK §



**PROCLAMATION
PROHIBITING OUTDOOR BURNING**

FILED FOR RECORD
APR 25 PM 2:42
Sydney Murphy
POLK COUNTY CLERK

WHEREAS, April 22, 2020 Polk County Judge Sydney Murphy signed a Declaration of a Disaster for the County of Polk, Texas, in the storm impacted areas of Onalaska and Seven Oaks, pursuant to §18.108(a) of the Texas Government Code; and

WHEREAS, the Polk County Judge does hereby find that circumstances present in the storm impacted areas of Polk County, Texas create a public safety hazard that would be exacerbated by certain outdoor burning; and

WHEREAS, such fires have the potential of endangering lives and damaging property on a large scale; and

WHEREAS, the Texas Disaster Act of 1975 authorized declaration of a state of disaster "if the threat of disaster is imminent"; and

WHEREAS, the magnitude of the potential damage and the rapidity at which such a fire could escalate to major proportions constitute an imminent threat of disaster; and

WHEREAS, declaration of such disaster authorized the imposition of controls on activities which tend to increase the likelihood of fires; and

WHEREAS, such controls, once implemented, have the potential of protecting lives and property by mitigating the threat of dangerous fires;

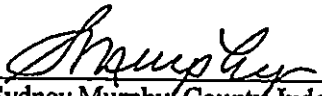
BE IT THEREFORE PROCLAIMED, that I, Sydney Murphy, County Judge of Polk County, do hereby declare a state of disaster based on the threat of large wildfires in Polk County, Texas, in the storm impacted areas of Onalaska and Seven Oaks; and

BE IT ALSO PROCLAIMED that this state of disaster will continue until rescinded in accordance with the above statute and order, but in no instance will this declaration continue for more than seven days without authorization by the Polk County Commissioners Court; and

BE IT ALSO PROCLAIMED that this state of disaster is being declared solely for the purpose of implementing controls aimed at mitigating the hazard posed by wildfires during the current disaster period.

BE IT ALSO ORDERED THAT the purpose of this order is the mitigation of the hazard posed by wildfires by curtailing the practice of outdoor burning, which purpose is to be taken into account in any enforcement action based upon this order.

IN WITNESS WHEREOF, I affix my signature this 25th day of April, 2020.



Sydney Murphy, County Judge
Polk County, Texas

Schelana Hoch