

November 5, 2019

## **December Fireworks Period (December 20-Midnight, January 1) Deadline to adopt order: December 14, 2019**

Local Government Code, §352.051 authorizes the commissioners court to adopt an order regulating certain fireworks in the unincorporated areas of the county under drought conditions. The statute provides that the order must be adopted before December 15 of each year for the December fireworks period.

If your county is designated a drought area, and your court wishes to adopt such an order, action must be taken before the deadline. To determine whether your county is designated a drought area, please visit the Texas Interagency Coordination Center website at [tamu.edu/ticc/](http://tamu.edu/ticc/) or call the Texas Forest Service at (979) 458-7331. The Texas Forest Service has developed drought [weblinks](#) to assist your county in monitoring drought conditions more closely.

If the court decides to adopt an order, the order may prohibit or restrict the sale or use of "restricted fireworks", which are defined as "skyrockets with sticks" as classified in 49 Code of Federal Regulations, § 173.100(r)(2) in effect on October 1, 1986 and as missiles with fins. A violation of the order is a Class C misdemeanor. Also, a citizen can file suit for an injunction to prevent a violation or threatened violation of the order. An order issued by your court based on a Texas Forest Service determination will expire when the Texas Forest Service finds that your county is no longer in a drought condition.

In addition, during the December fireworks season, the commissioners court may make a determination under Local Government Code §352.051(c) that conditions on rural acreage not under cultivation for at least 12 months are extremely hazardous for the danger of fire because of high grass or dry vegetation and adopt an order to prohibit or restrict the sale or use of restricted fireworks in specified areas of the county. An order issued by the commissioners court based on its determination of extreme hazard for the danger of fire will expire on the date established in the order.

Under Local Government Code § 352.051(f), the county may also designate one or more "safe" areas where the use of restricted fireworks is not prohibited. In determining if an area may be considered "safe" the court should take into account whether adequate public safety and fire protection services are provided to the area.

A sample order, a copy of Local Government Code §352.051, the portions of the Occupation Code that define and explain permitted and prohibited fireworks, and copies of the Federal regulations referenced in the state law are available online at [county.org/fireworks](http://county.org/fireworks). If your court decides to designate "safe" areas, the order will need to be modified to include appropriate language. If you have any questions, please contact the Legal Department toll-free at (888) 275-8224.