

ELLIS COUNTY COMMISSIONERS' COURT

ORDER NO. 128.18

AN ORDER PROHIBITING OUTDOOR BURNING

On this the 30th day of January, 2018, the Ellis County Commissioners' Court of Ellis County, Texas, convened in a regular session of said Court at 101 West Main, Waxahachie, Texas, the following member present, to-wit:

County Judge	<u>Carol Bush</u>
Commissioner Precinct #1	<u>Randy Stinson</u>
Commissioner Precinct #2	<u>Lane Grayson</u>
Commissioner Precinct #3	<u>Paul Perry</u>
Commissioner Precinct #4	<u>Kyle Butler</u>

And among other proceedings, on motion of Commissioner Perry, seconded by Stinson, duly put and carried the following Order was passed:

**WHEREAS**, Section 352.081 of the Texas Local Government Code provides that the commissioners court of a county by order may prohibit or restrict outdoor burning in the unincorporated area of the county if drought conditions have been determined to exist in all of Ellis County, Texas by the Texas Forest Service; or 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 Ellis County Commissioners' Court does hereby find that circumstances present in all of the unincorporated area of Ellis County create a public safety hazard that would be exacerbated by outdoor burning;

**NOW, THEREFORE**, it is **ORDERED** that outdoor burning is prohibited in all of the unincorporated areas of Ellis County as follows:

**(A) ACTIONS PROHIBITED:**

Except as is specifically set out herein, a person violates this order if he burns or otherwise dispenses, emits, explodes, detonates, throws off, or otherwise delivers any spark or fire to, or in the area of any combustible material, including but not limited to all, trash, debris, leaves, trees, paper.

**(B) This order does not apply to outdoor burning activities:**

- (1) Domestic wastes that normally result from the function of life within a residence—for example, kitchen garbage, untreated lumber, cardboard boxes, packaging, clothing, grass, leaves, and branch trimmings, may be burned in compliance with the following requirements creating a controlled environment and safeguards on each day performed:

- (a) Such material is wholly enclosed in a single receptacle adequate to completely contain all such flames and/or sparks.
- (b) Begin burning no earlier than one hour after sunrise, end it the same day and no later than one hour before sunset
- (c) A responsible party is present while the burn is active.
- (d) Area near burn must be clear of vegetation and/or combustible materials or debris.
- (e) Adequate fire suppression equipment in the form of either a properly operating fire extinguisher or water hose attached to a constant supply will suffice for this requirement.

**No domestic waste burning is allowed on days designated as Red Flag Warning Days by the National Weather Service. Such things as tires, construction debris, furniture, carpet, electrical wire, and appliances are not considered to be domestic waste and cannot be burned.**

(2) Outdoor Cooking allowed with the restrictions listed below:

- (a) The cooking device is propane, natural gas, wood or charcoal and has a complete and full enclosure that is utilized at all times.
- (b) The cooking device shall be clear of vegetation and/or combustible materials or debris.
- (c) Adequate fire suppression equipment in the form of either a properly operating fire extinguisher or water hose attached to a constant supply will suffice for this requirement.

(3) These prohibitions do not apply to the sale or detonation of fireworks.

(4) That involve the performance of outdoor combustible operations, including but not limited to, outdoor welding, cutting or grinding operations by any person if the operations are performed in compliance with the following requirements creating a controlled environment and safeguards on each day when operations are performed:

- (a) An additional responsible person designated as a fire watcher who remains at all times within 100 feet of any welding, grinding, cutting, or any other activity that emits a spark and who remains on the scene of any such activity for a minimum of 30 minutes after cessation of any outdoor welding, grinding, cutting, or other activity that emits a spark;
- (b) Each location where outdoor welding, cutting or grinding operations are being performed must have cellular telephone communications for emergency response;
- (c) Adequate fire suppression equipment which must include, at a minimum, either a properly operating 2A-20BC fire extinguisher, kept within 30 feet of any outdoor welding, grinding, cutting, or other activity that emits a spark or a water hose connected to a continuous water source under pressure with sufficient length of hose to reach at least 100 feet beyond any welding, grinding, cutting or activity that emits a spark.

**No outdoor welding, cutting or grinding operations is allowed on days designated as Red Flag Warning Days by the National Weather Service.**

- (5) Related to public health and safety that are authorized by the Texas Commission on Environmental Quality for:
  - (a) firefighter training;
  - (b) public utility, natural gas pipeline, or mining operations;
  - (c) planting or harvesting of agriculture crops.
- (6) Burns 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.
- (7) Burns authorized by both the Ellis County Fire Marshal's Office and the fire department assigned to provide service to the area in which the burn would take place, then conducted under the direct supervision of that same department.

**(C) ENFORCEMENT:**

- (1) Upon notification of suspected outdoor burning, the fire department with jurisdiction for the location of the fire shall respond to the scene and take immediate measures to contain and/or extinguish the fire.
- (2) If the on-scene fire commander determines a prohibited action has occurred, they may request a duly-commissioned peace officer respond to the scene to investigate the said activity.
- (3) If, in the opinion of the officer at the scene and/or on-scene fire commander, the goal of the order can be attained by informing the responsible party about the prohibitions established by this order, the officer or the on-scene fire commander may, at his discretion, notify the responsible party about the provisions of this order and request compliance with it. In such instances, an entry of notification shall be made into the dispatchers log containing the time, date, and place of the warning, and the name of the person or persons receiving the warning.
- (4) 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.
- (5) This order may be enforced by any duly-commissioned peace officer.

**(D) EFFECTIVE DATE:**

This order shall take effect immediately.

**(E) DURATION:**

This order shall remain in effect for 90 days from effective date of this order, or prior to such expiration date if the Ellis County Commissioners' Court by order determines that circumstances present in the unincorporated areas of Ellis County no longer create a public safety hazard that would be exacerbated by outdoor burning, whichever occurs earlier. The Ellis County Commissioners' Court may adopt an additional order that takes effect on the expiration of this order if the Ellis County Commissioners' Court finds at such time that

circumstances then present in the unincorporated areas of Ellis County continue to create a public safety hazard that would be exacerbated by outdoor burning.

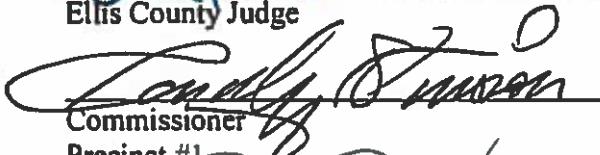
**(F) SEVERABILITY:**

If any section, article, paragraph, sentence, clause, phrase or word in this order, or application thereto, or any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this order; and the Commissioners' Court hereby declares it would have passed such remaining portions of the order despite such invalidity, which remaining portions shall remain in force and effect.

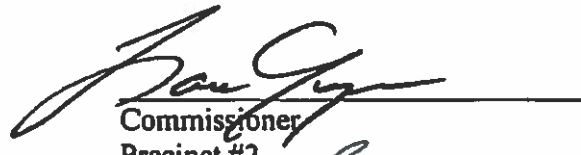
**Approved By:**

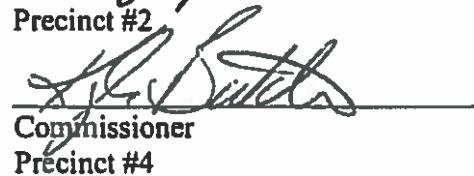
Ellis County Commissions' Court on January \_\_\_\_\_, 30th \_\_\_\_\_, 2018 \_\_\_\_\_.

  
\_\_\_\_\_  
Ellis County Judge

  
\_\_\_\_\_  
Commissioner  
Precinct #1

  
\_\_\_\_\_  
Commission  
Precinct #3

  
\_\_\_\_\_  
Commissioner  
Precinct #2

  
\_\_\_\_\_  
Commissioner  
Precinct #4

Attest:  
  
\_\_\_\_\_  
County Clerk

