



CINCO DE MAYO FIREWORKS PERIOD

(MAY 1-MIDNIGHT, MAY 5)

DEADLINE TO ADOPT ORDER: APRIL 24, 2020

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 April 25 for the Cinco de Mayo (May 5) 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/ 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 Cinco de Mayo fireworks period, 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 is provided on the following page. If your court decides to designate "safe" areas, the order will need to be modified to include appropriate language. 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. If you have any questions, please contact the Legal Department toll-free at (888) 275-8224.

STATE OF TEXAS §
COUNTY OF _____ §

ORDER [PROHIBITING OR RESTRICTING] CERTAIN FIREWORKS
IN UNINCORPORATED AREAS OF _____ COUNTY, TEXAS

WHEREAS, the Texas Forest Service has determined that drought conditions exist in _____ County; and

WHEREAS, on the ____ of _____, 2020, the Commissioners Court of _____ County has determined that the normal danger of fire in the unincorporated areas of _____ County is greatly enhanced by the extremely dry conditions now existing;

NOW, THEREFORE, the Commissioners Court of _____ County adopts this Order [prohibiting OR restricting] the sale or use of restricted fireworks in the unincorporated areas of _____ County.

- A. A person may not sell, detonate, ignite, or in any way use fireworks classified as “skyrockets with sticks” under 49 C.F.R. part. 173.100(r)(2) (10-01-86 edition) or missiles with fins in any portion of the unincorporated areas of _____ County.
- B. [Describe specific restrictions, if applicable.]
- C. This Order does not prohibit “permissible fireworks” as authorized in Occupations Code Section 2154.003(a).
- D. A person commits an offense if the person knowingly or intentionally violates a prohibition established by this Order. An offense under this order is a Class C. Misdemeanor.
- E. This order expires on the date the Texas Forest Service determines drought conditions no longer exist in the county or _____ [Insert date on or after December 20 and January 1 of the following year], whichever is earlier.

APPROVED this the ____ day of _____, 2020, by the _____ County Commissioners Court.

COUNTY JUDGE

Attest: _____
CLERK