



MEMORIAL DAY FIREWORKS PERIOD

(MAY 22-MIDNIGHT, MAY 27)

DEADLINE TO ORDER: MAY 14, 2019

Occupations Code, §2154.202(h), permits the commissioners court to adopt an order authorizing the sale of fireworks for Memorial Day (May 27).

If the court decides to permit sale of fireworks during the Memorial Day period, the order must be adopted before May 15. If the court does not wish to permit the sale of fireworks during this period, no action is required.

Please note the distinction between this law (Occupations Code, §2154.202(h)), which **allows** the commissioners court at its **discretion** to **permit** fireworks sales for the holiday period and the other law (Local Government Code, §352.051) which **requires** the court to take action to **restrict or prohibit** sales during certain times of the year if drought conditions are present.

To assist the court in determining whether conditions are suitable for authorizing the sale of fireworks, the Texas Forest Service is required to make its services available each day during the Memorial Day period to respond to the request of a county as to whether or not drought conditions exist. To obtain a determination from the Texas Forest Service, call (979) 458-7331.

If the court decides to adopt such an order for Memorial Day, it may **restrict or prohibit** the sale of "restricted fireworks," which are defined as "skyrockets with sticks" and as "missiles with fins". A violation of the order is a Class C misdemeanor. Also, a citizen may file suit for an injunction to prevent a violation or threatened violation of 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 authorizing sale of fireworks during this period is provided on the following page. If your court decides to designate "safe" areas, the sample order will need to be modified to include appropriate language. A copy of Local Government Code §352.051, and the portions of the Occupations Code that define and explain permitted and prohibited fireworks are available online at county.org/fireworks. If you have any questions, please contact the TAC Legal Department at (888) 275-8224.

STATE OF TEXAS

COUNTY OF _____

SAMPLE ORDER AUTHORIZING MEMORIAL DAY FIREWORKS SALES

WHEREAS, the Commissioners Court of _____ County is authorized under Occupations Code Section 2154.202(h), to issue an order allowing retail fireworks permit holders to sell fireworks to the public in celebration of Memorial Day; and

WHEREAS, on the ___ day of _____, 2019, the Commissioners Court of _____ County has determined that conditions are favorable to issue such an Order;

NOW, THEREFORE, the Commissioners Court of _____ County adopts this Order authorizing the sale of fireworks to the public by retail fireworks permit holders during the Memorial Day period beginning May 22, 2019 and ending at midnight May 27, 2019, subject to the following restrictions:

- a. This order expires on the date the Texas Fire Service determines drought conditions exist in the county or midnight, May 27, 2019, whichever is earlier.
- b. [Describe specific restrictions, if applicable]

Approved this the ___ day of _____, 2019, by the _____ County Commissioners Court.

County Judge