

Order Prohibiting Solid Waste Disposal

SECTION 1. DEFINITIONS

- A. "Disposal" means the discharging, depositing, injecting, dumping, spilling, leaking or placing of solid waste or hazardous waste, whether containerized or uncontainerized, into or on land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the environment in any other manner.
- B. "Solid Waste" means garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including soil, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, and mining operations and from community and institutional activities.

SECTION 2. AUTHORITY

A county may prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare. *Tex. Health and Safety Code §364.012*

SECTION 3. APPLICABILITY

This Order **does not** apply to:

- A. Areas inside the corporate limits or ETJ of any municipality;
- B. Areas for which a pending application for a solid waste permit or other solid waste authorization under *Chapter 361, Texas Health and Safety Code*, has been filed with and declared administratively complete by the Texas Commission on Environmental Quality or its predecessor agency;
- C. Areas for which a solid waste permit or other solid waste authorization under *Chapter 361, Texas Health and Safety Code*, has been issued by the Texas Commission on Environmental Quality or any of its predecessors or successor agencies provided that the permit or other authorization is effective and valid on the effective date of this Order; or
- D. Areas that do not require a permit for the collection, handling, storage, processing, and disposal of industrial solid waste that is disposed of within the boundaries of a tract of land that is:
 - (1) owned or otherwise effectively controlled by the owners or operators of the particular industrial plant, manufacturing plant, or mining operation from which the waste results of is produced; and
 - (2) located within 50 miles from the plant or operation that is the source of the industrial solid waste. *Texas Health and Safety Code §361.090.*

SECTION 4. GENERAL PROVISION AND FINDINGS

Whereas, the Burnet County Commissioners Court has both the responsibility and the authority to protect the health, safety and welfare of the citizens of Burnet County, Texas and their property interest; and

Whereas, the disposal of solid waste is an activity that has high potential to negatively impact the health, safety and welfare of any community; and

Whereas, the Commissioners Court believes and hereby finds that disposal of solid waste in the county would constitute an unacceptable risk and threat to the public health, safety and welfare for the reasons and findings stated below, among many others, to wit:

The Court finds that the disposal of solid waste in general may negatively influence property values; and

The Court finds the use of all present technology and science with regard to the location, installation, operation and maintenance of municipal, industrial and hazardous solid waste disposal sites, cannot guarantee or ensure that such sites will not contaminate, spoil and pollute areas surrounding and distant to said disposal sites;

The Court further finds that if the substances contained within disposed solid waste escape into the air or waterways, including subsurface waterways, significant threats to the public health, safety and welfare exist; and

The Court finds that the nature of the soils of Burnet County is such that it would allow migration of waste and hazardous material to the contamination of groundwater, which many citizens rely on for drinking water; and

The Court finds that the proliferation of wildlife, particularly wild hogs, would present a likelihood of contamination of surrounding lands and groundwater.

The Court further finds that the traffic associated with the disposal of solid waste, which involves receiving and dispatching a large number of heavy trucks hauling waste, constitutes a hazard to the public health and a threat to the public roads;

The Court further finds that waste streams that can be received in municipal and non-hazardous industrial waste facilities include chemicals that are toxic, corrosive, flammable and explosive, and that such substances present a threat to the public health, safety and welfare;

The Court finds that prohibition of solid waste disposal as provided in this Order is necessary to prevent a grave and immediate threat to life and property; and

The Court finally finds that such a prohibition is a necessary response to a real and substantial threat to public health and safety, that such a prohibition will significantly advance the health and safety of the public and that the prohibition does not impose a greater burden than necessary to protect the public health and safety under the circumstances.

SECTION 5. DISPOSAL OF SOLID WASTE PROHIBITED

It is Ordained and Ordered that the disposal of municipal solid waste and industrial solid waste is **Prohibited** within all unincorporated areas of Burnet County, Texas.

SECTION 6. CIVIL REMEDIES AND PENALTIES

- A. Any violation of this ordinance is subject to a civil penalty of \$10,000.00 for each violation. Such penalty to be forfeited to Burnet County, Texas. Each day that a violation continues constitutes a separate ground for recovery.
- B. The Commissioners Court of Burnet County, Texas may bring a legal action to enjoin violations of this Order and seek judgment for any civil penalties.

SECTION 7. CRIMINAL PENALTIES

- A. Disposal of solid waste in violation of this ordinance constitutes a class C misdemeanor punishable by a fine not to exceed \$500.00.
- B. Each day that a violation continues constitutes a separate offense under this Order.

SECTION 8. SEVERABILITY

If any portion of this Order is deemed to be in violation of the statutes or the Constitution of this state or the United States by a court of competent jurisdiction, said portion shall be severed, and the remaining portions of the Order shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE

This Order shall become effective immediately upon adoption.

Read and adopted this _____ day of _____, 2017, by a vote of _____ ayes and _____ nays.

James Oakley, Burnet County Judge

ATTEST:

Janet Parker, Burnet County Clerk