

**Resolution No. 2011-30**



**In The Matter Of:  
Declaration of Local Disaster  
For Comal County, Texas**

§

**In the Commissioners Court**

§

**Comal County, Texas**

**Resolution Supporting County Judge Sherman Krause's  
Declaration of Local Disaster for Comal County, Texas and  
Request for Extension by the Honorable Rick Perry**

WHEREAS, the Commissioners Court recognizes and supports the efforts and actions of County Judge Sherman Krause in his declaring a Local Disaster for Comal County because the County is experiencing the occurrence and imminent threat of widespread and severe damage, injury, and/or loss of life and property resulting from:

**WILDFIRES DUE TO DROUGHT, DRY VEGETATION, WIND, AND OTHER WEATHER RELATED CONDITIONS; and**

WHEREAS, the Comal County Declaration requires certain emergency measures be taken pursuant to Chapter 418 of the Texas Government Code, titled the Texas Disaster Act of 1975, relating to Emergency Management; and

WHEREAS, Section 418.108 of the Texas Government Code authorizes the County Judge to include in his declaration of disaster prohibitions that exceed the restrictions authorized by Section 352.051 of the Texas Local Government Code; and

WHEREAS, the County Judge of Comal County has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property by evidence of affidavits provided by the Comal County Fire Marshal Wayne Ellington, and Representatives from five Fire Departments serving this County; and

WHEREAS, on June 14, 2011, the Keetch-Byram Drought Index (KBDI) mean reading for Comal County, Texas was 728 with the maximum reading in some areas of the county at 744 and the minimum reading at 708, and the fourteen (14) day outlook predicting the KBDI mean reading to register 755 with the maximum reading at 765 and the minimum reading 743, where the Index's maximum rating is 800; and

WHEREAS, the National Weather Service forecasts no significant amount of precipitation in the unincorporated area of Comal County, and forecasts mostly sunny and hot with a high near 102 on June 15, 2011; and

WHEREAS, on May 19, 2011, the Commissioners Court of Comal County issued Order No. 268 to Prohibit Outdoor Burning ("Burn Ban"), and said Order and prohibition on outdoor burning is still in effect; and

WHEREAS, on June 9, 2011, the Commissioners Court of Comal County issued Order No. 269 to Prohibit the Sale or Use of Restricted Fireworks "skyrockets with sticks" and "missiles with fins" as defined in Sections 352.051(a)(1) of the Texas Local Government Code and 173.100(r)(2) of the Texas Occupations Code (10-1-86 edition), and said Order and prohibition is still in effect; and

WHEREAS, on June 15, 2011 at 9:00 a.m., County Judge Krause issued a Disaster Declaration due to "drought conditions" pursuant to Section 418.108 of the Government Code, and said Order is still in effect; and

WHEREAS, on June 15, 2011 at 9:00 a.m., County Judge Krause issued Executive Order No. 270, which mandates that pursuant to the authority granted in the Texas Disaster Act of Chapter 418 Texas Government Code and Section 352.051 of the Texas Local Government Code, the following regulations shall take effect immediately upon issuance of this Order and shall remain in effect until the state of disaster is terminated or extended:

**THE SALE, DISPENSING, TRANSPORTATION, AND USE OF FIREWORKS WITH A 1.4G RATING AS DEFINED IN SECTION 2154.001(7) OF THE TEXAS OCCUPATIONS CODE IS PROHIBITED.**

WHEREAS, on June 15, 2011 at 9:00 a.m., County Judge Krause issued Executive Order No. 271, which mandates that pursuant to the authority granted in the Texas Disaster Act of Chapter 418 Texas Government Code, the following regulations shall take effect immediately upon issuance of this Order and shall remain in effect until the state of disaster is terminated or extended:

**THE EXERCISE AND USE OF OUTDOOR WELDING AND/OR OTHER ACTIVITIES UTILIZING EXPLOSIVES OR COMBUSTIBLE MATERIALS IS PROHIBITED UNLESS PRIOR APPROVAL OF A FIRE SAFETY PLAN FOR THE SAID WELDING OR OTHER ACTIVITIES IS OBTAINED FROM THE COMAL COUNTY FIRE MARSHAL PRIOR TO ENGAGING IN SUCH ACTIVITY. SAID FIRE SAFETY PLAN MAY INCLUDE, BUT IS NOT LIMITED TO THE FOLLOWING FIRE SAFETY MEASURES: SATURATION OF THE SURROUNDING GROUND AREA WITH ADEQUATE MOISTURE, UTILIZATION OF ADEQUATE PERSONNEL TO OBSERVE AND HANDLE THE RESULTING EFFECTS FROM THE USE OF EXPLOSIVE OR COMBUSTIBLE MATERIAL, PREPARATION OF THE GROUND AREA TO PREVENT AND REMOVE LARGE AMOUNTS OF CURED GRASS, AND FIRE SUPPRESSION DEVICES. THE FIRE MARSHAL SHALL HAVE THE FINAL**

**DETERMINATION AS TO THE NECESSARY FIRE SAFETY MEASURES FOR THE SAID WELDING OR OTHER ACTIVITIES.**

**THE EXERCISE OF OUTDOOR COOKING WITH OPEN FLAME IS PROHIBITED UNLESS USING A BARBEQUE PIT OR SIMILAR DEVICE, WHICH IS MANUFACTURED WITH A LID THAT WHEN CLOSED WILL CONTAIN ALL OPEN FLAME. SAID BARBEQUE PIT OR SIMILAR DEVICE MUST BE USED ONLY FOR COOKING PURPOSES. THE FOLLOWING FIRE SAFETY MEASURES SHOULD BE IMPLEMENTED FOR OUTDOOR COOKING WITH OPEN FLAME, INCLUDING, BUT NOT LIMITED TO: SATURATION OF THE SURROUNDING GROUND AREA WITH ADEQUATE MOISTURE, CONSTANT SUPERVISION AND OBSERVATION OF THE BARBEQUE PIT OR SIMILAR DEVICE, AND FIRE SUPPRESSION DEVICES.**

WHEREAS, pursuant to Section 121.003(a) of the Texas Health and Safety Code the Commissioners Court may enforce any law that is reasonably necessary to protect the public health; and

WHEREAS, this Commissioners Court finds that the County Judge's Disaster Declaration and Executive Orders are necessary to protect the safety, health, and welfare of the public due to the EXCEPTIONAL drought conditions in Comal County, Texas; and

WHEREAS, pursuant to Section 418.108(i)(1) & (2) the Governor may extend restrictions pursuant to the County Judge's Declaration and Executive Order upon the Judge's request; and

WHEREAS, on June 15, 2011, County Judge Krause requested the Governor to extend the restrictions made pursuant to County Judge Krause's Declaration and Executive Order No. 270; and

WHEREAS, the Commissioners Court finds that in an effort to carry out their duty of protecting the health, safety, and welfare of the public it is imperative the County Judge's restrictions in his Executive Order No. 270 made pursuant to his Declaration of a Local Disaster be extended until the drought conditions no longer exist or until midnight July 5, 2011.

NOW THEREFORE BE IT RESOLVED, that the Comal County Commissioners Court requests the Honorable Rick Perry extend the restrictions made pursuant to County Judge Krause's Declaration of Local Disaster for Comal County, Texas issued on June 15, 2011 at 9:00 a.m. and Executive Order No. 270 until the Drought Conditions no longer exist or until midnight July 5, 2011.

APPROVED this 16<sup>th</sup> day of June, 2011.

  
SHERMAN KRAUSE,  
COUNTY JUDGE

Absent  
DONNA ECCLESTON,  
COUNTY COMMISSIONER PCT. #1

  
SCOTT HAAG,  
COUNTY COMMISSIONER PCT. #2

  
GREGORY PARKER,  
COUNTY COMMISSIONER PCT. #3

  
JAN KENNADY,  
COUNTY COMMISSIONER PCT. #4



ATTEST: Joy Streater  
JOY STREATER, COUNTY CLERK  
*by Cynthia Jazua, Deputy*