

ANNEX U

Legal

Revision 4

**Brazoria County
and
Joint Resolution Cities**

RECORD OF CHANGES

[illegible]

APPROVAL & IMPLEMENTATION

Annex U

Legal

Revision 4

Tom Selleck
Brazoria County District Attorney

Date

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

Date

ANNEX U

LEGAL

I. AUTHORITY

- A.** See Section I of the Basic Plan for general authorities.
- B.** Texas Local Government Code, Chapter 203 (Management and Preservation of Records), and Chapter 229 (Miscellaneous Regulatory Authority of Municipalities).
- C.** Texas Government Code, Chapter 791 (Interlocal Cooperation Contracts).

II. PURPOSE

The purpose of this annex is to make provision for legal services during emergency situations or when such situations appear imminent, and to provide guidance for invoking the emergency powers of government when necessary.

III. EXPLANATION OF TERMS

EOC	Emergency Operating Center
FEMA	Federal Emergency Management Agency
IC	Incident Commander
TAC	Texas Administrative Code
TGC	Texas Government Code

IV. SITUATION & ASSUMPTIONS

A. Situation

Brazoria County is at risk from a number of hazards that could cause or threaten public health and safety and personal and government property; see Section IV.A of the basic plan for a summary of these hazards. Legal issues requiring timely resolution may arise during pre-disaster hazard mitigation designed to lessen the effects of known hazards, during pre-disaster preparedness activities designed to enhance the local capability to respond to a disaster, during the actual response to a disaster, or during the post-disaster recovery process.

B. Assumptions

1. Local emergency preparedness plans and programs should have a sound legal basis.
2. In responding to major emergencies and disasters, local officials may be required to take extraordinary measures to protect public health and safety and preserve property. They will also require timely advice regarding the legality of proposed measures.
3. Implementation of measures to protect public health and safety and preserve property during emergency recovery and mitigation activities generally require issuance of

appropriate legal documents. These should be prepared by competent legal service professionals.

V. CONCEPT OF OPERATIONS

A. General

1. Emergency Declaration

- a. Pursuant to Chapter 433, Texas Government Code (TGC), the chief elected official or the governing body of a city or county may request the Governor declare a state of emergency for a jurisdiction or a portion thereof. For purposes of this statute, an emergency exists in the following situations: riot or unlawful assembly by three or more persons acting together by use of force or violence, the existence of a clear and present danger of violence, or a natural or man-made disaster. The Governor may proclaim a state of emergency and issue directives to control and terminate the emergency and protect life and property. Directives issued by the Governor for a state of emergency expire 72 hours after issuance; however, successive states of emergency may be declared by the Governor. A sample request for an emergency declaration is provided in Appendix 1.
- b. The emergency declaration process is generally not used for natural or man-made disasters because: (1) it requires action by the Governor to resolve local problems rather than facilitating action by local officials, (2) the Governor's directives require advance notice before they become effective, and (3) directives are of very limited duration – 72 hours. Hence, a disaster declaration may be more appropriate for responding to natural or technological emergencies. An emergency declaration may be appropriate for security-related incidents where local law enforcement resources are inadequate to handle the situation.
- c. If the actions taken by the Governor after an initial emergency declaration do not resolve the emergency situation, the chief elected official or governing body may request that the emergency declaration be continued. If the local emergency situation that was the basis for an emergency declaration is resolved before the Governor's directives expire, it is desirable to advise the Governor that the emergency declaration is no longer required.

2. Disaster Declaration

- a. The Texas Disaster Act of 1975, Chapter 418, TGC, provides that the presiding officer of the governing body of a political subdivision (the County Judge of a county or the Mayor of a municipality) may declare a local state of disaster. A disaster declaration may be issued when a disaster has occurred or appears imminent. Chief elected officials, in order to respond to or recover from a significant natural or man-made disaster, typically use the disaster declaration process. A sample disaster declaration is provided in Appendix 2. Copies of a disaster declaration should be filed with the Texas Division of Emergency Management (TDEM) and the Brazoria County Clerk.
- b. Chapter 418.108 of the Texas Government Code provides that the county judge may declare a local state of disaster. A declaration of local disaster activates the

appropriate recovery and rehabilitation aspects of all applicable local or interjurisdictional emergency management plans and authorizes the furnishing of aid and assistance under the declaration. The County Judge may evacuate all or part of the population from a stricken or threatened area and may control the ingress to and egress from a disaster area.

- c. Chapter 418.1015 provides that when a state of disaster has been declared, the County Judge exercises similar powers on an appropriate local scale as have been granted to the Governor in the Disaster Act. Among those powers is the authority suspend procedural laws and rules, use public and private resources to respond to the disaster, control the movement of people, restrict the sale and transportation of certain items, and take a number of other actions. Once a state of disaster is declared, a city or county may enact an emergency ordinance or order describing the specific emergency regulations that are to be put into effect during the disaster. A sample emergency powers ordinance is provided in Appendix 5.
- d. Chapter 433 of the Texas Government Code limits the seizure and/or confiscation of any firearm or ammunition from individuals, except under specific circumstances.
- e. A disaster declaration may not be continued in force for more than seven days unless renewed by the Commissioners Court. A sample court order extending a disaster declaration is provided in Appendix 3. The Commissioners Court may terminate a state of disaster at any time; this approach is typically used when the threat that gave rise to the disaster declaration has subsided. Alternatively, the Commissioners Court may choose to simply let the declaration expire by taking no action to extend it. A sample ordinance/court order terminating a disaster declaration is provided in Appendix 4.

3. Continuity of Government

Pursuant to Chapter 418 of the Texas Government Code, the Commissioners Court of Brazoria County will adopt a plan for the continuity of the functions of the County during a presidential and/or gubernatorial declared disaster or other catastrophic event. The County Continuity of Operations Plan will provide for:

- a. The delegation of administrative duties of the Commissioners Court or any official or employee of the County to another appropriate person;
- b. The establishment of orders of succession for performing essential functions of the County;
- c. The establishment of meeting procedures for the Commissioners Court;
- d. The plan will not provide for the delegation of a duty required by the Texas Constitution; and
- e. The waiving of the requirement for a quorum for members of the Commissioners Court, except where otherwise prohibited by law, if:
 - 1) The County is wholly or partly in the area of a disaster declared by the president or governor; and
 - 2) A majority of the Commissioners Court are unable to be present at a meeting as a result of the disaster.

4. Authority for Evacuations

Government Code section 418 provides a County Judge with the authority to order the evacuation of all or part of the population from a stricken or threatened area under their within their respective jurisdiction or authority

5. County Regulation of Outdoor Burning & Use of Fireworks

During drought conditions, there is an increased threat of wildfires; therefore, the Local Government Code gives counties authority to mitigate this risk by restricting outdoor burning and the use of fireworks in unincorporated areas under certain circumstances.

- a. Pursuant to §352.081 of the Local Government Code, the Commissioners Court of a county by order may restrict outdoor burning in general or outdoor burning of a particular substance in all or part of the unincorporated area of the county if drought conditions have been determined by the Texas Forest Service to exist or county officials find that circumstances exist in all or parts of the unincorporated areas of the county that create a public safety hazard that would be exacerbated by outdoor burning. A procedure for implementing restrictions on outdoor burning is for the County Judge to issue a disaster declaration pursuant to the Texas Disaster Act based on the imminent threat of wildfire. Then, the Commissioners Court issues an emergency order restricting outdoor burning in all unincorporated areas of the county or portions of those areas. An order adopted must specify the period during which outdoor burning is prohibited or restricted. The period may not extend beyond the 90th day after the date the order is adopted. Such orders for the Fourth of July fireworks season must be issued by June 15th ending sales by midnight July 4th and by December 15th ending sales by midnight January 1st for the December fireworks season. A sample disaster declaration based on a threat of wildfire is provided in Appendix 6. A sample Commissioners Court order banning outdoor burning is provided in Appendix 7.
- b. Pursuant to §352.051 of the Local Government Code, counties may prohibit or restrict the sale or use of fireworks in unincorporated areas of the county if drought conditions have been determined to exist by the Texas Forest Service.

B. Activities by Phases of Emergency Management

1. Mitigation

- a. Brief the elected officials and department heads on possible liabilities arising from disaster operations, procedures for invoking the emergency powers of government, and legal documents relating to emergency powers.
- b. Maintain current copies of existing disaster-related laws, regulations, and orders.
- c. Develop local procedures for invoking emergency powers.

- d. Prepare sample legal documents (included in this annex) for approval by elected officials.

2. Preparedness

- a. Ensure county emergency call-out rosters include the District Attorney, who should maintain current telephone numbers and addresses for the legal staff.
- b. Review plans and procedures.
- c. Review mutual aid agreements submitted to the jurisdiction for approval and prepare mutual aid agreements to be submitted to other jurisdictions for approval.

3. Response

- a. Advise the County Judge and emergency services staff on legal implications of response activities.
- b. Prepare, have approved and signed, and disseminate (Prepare for approval, signature and dissemination) legal documents declaring a disaster, terminating a disaster declaration, or invoking emergency powers, if required.
- c. Advise the Incident Commander (IC) on legal matters, such as emergency proclamations, legality of evacuation orders, and legal rights and restrictions pertaining to media access.

4. Recovery

- a. Advise Brazoria County officials on legal aspects of recovery operations.
- b. Assist Brazoria County officials in preparing emergency ordinances, permits, applications for state or federal assistance, grant applications, and, if necessary, litigation.

VI. ORGANIZATION & ASSIGNMENT OF RESPONSIBILITIES
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A. General.

Overall responsibility for providing legal services to the Brazoria County Judge, the Commissioners Court, department heads, and other officials during an emergency rests with the Brazoria County District Attorney. The Brazoria County District Attorney will be assisted by his or her subordinates.

B. Task Assignments

1. County Judge

- a. Will take such actions that are legal and necessary to manage the disaster at hand.
- b. If the situation warrants, may declare a local state of disaster. Issuance of a local disaster declaration is advisable if an emergency situation has resulted in substantial

damage to privately-owned or government property and state or federal assistance will be needed to recover from the incident. If a local disaster declaration is issued, it shall be given prompt and general publicity.

- c. If the situation warrants, may request the Governor to declare a state of emergency.
- d. If requesting state assistance to cope with a local disaster, should attach copies of any local disaster declaration that has been issued to the request for state assistance. See Annex J, Damage Assessment, for further information.

2. Brazoria County District Attorney

- a. Advise county elected officials and department heads regarding the emergency powers of local government and necessary procedures for invoking measures to:
 - 1) suspend procedural laws and rules
 - 2) establish curfews
 - 3) restrict or deny access to a disaster area
 - 4) control the movement of persons and occupancy of premises in a disaster area
 - 5) implement wage, price, and rent control;
 - 6) establish rationing for critical supplies
 - 7) limit or restrict use of water or other utilities
 - 8) use any publicly owned resource to respond to the disaster
 - 9) commandeer private property, subject to compensation requirements, to respond to the disaster
 - 10) remove debris from publicly or privately owned property
 - 11) restrict outdoor burning and use of fireworks
- b. Review and advise county officials on possible liabilities arising from disaster operations, including the exercising of any or all of the above powers.
- c. Prepare and recommend legislation to implement the emergency powers that may be required during an emergency.
- d. Advise county officials and department heads on record keeping requirements and other documentation necessary for the exercising of emergency powers.
- e. Prepare and keep current this annex.
- f. During an emergency, report instances of overcharging for emergency supplies, equipment, and repair materials to the Consumer Affairs section of the Office of the Attorney General.

3. Brazoria County Clerk

- a. Publish required agenda of meetings.
- b. Prepare a record of public meetings
- c. Receive a copy of disaster declarations and documents extending or terminating a state of disaster.

- d. Ensure proper protection of all records.

VII. DIRECTION & CONTROL

- A. General.** The Brazoria County District Attorney or designee is responsible for providing legal services to the County Judge, Commissioners Court and department heads and for preparing all legal documents necessary for the conduct of emergency operations and the exercise of emergency powers. Supervisors will exercise their usual supervisory responsibilities over legal personnel.
- B. Coordination.** The Brazoria County District Attorney will designate a person to coordinate with the County Judge and the EOC, if activated. The Brazoria County District Attorney will identify staff members to be called for emergency duty and will designate those responsible for contacting such staff members.
- C. Line of Succession.** The line of succession for legal services personnel will be:
 1. Tom Selleck, Mary Shine
 2. Mary Aldous, Ryan Erickson
 3. Andrew Heston

VIII. READINESS LEVELS

A. Readiness Level IV – Normal Conditions

See the mitigation and preparedness activities in paragraphs V.B.1) and V.B.2) above.

B. Readiness Level III - Increased Readiness

1. The Brazoria County District Attorney will review the potential emergency situation, determine staff availability, and review emergency tasks assigned in the emergency management plan and this annex.
2. The Brazoria County District Attorney will designate the personnel on-call for emergency duty.

C. Readiness Level II – High Readiness

1. Senior county officials and department heads will be briefed on the legal ramifications, if any, of the potential emergency situation.
2. The Brazoria County District Attorney will brief the legal staff on the potential emergency situation and plans to deal with it should it occur and ensure that on-call staff members are available by telephone and ready to report duty if called.

D. Readiness Level I – Maximum Readiness

The designated on-call legal services representative will proceed to the EOC if requested.

IX. ADMINISTRATION & SUPPORT

- A. Maintenance of Records.** All records generated during an emergency will be collected and filed in an orderly manner so a record of events is preserved for use in determining response costs, settling claims, and updating emergency plans and procedures.
- B. Preservation of Records.** Vital legal records should be protected from the effects of disaster to the maximum extent feasible. Should records be damaged during an emergency situation, professional assistance in preserving and restoring those records should be obtained from a firm specializing in these tasks as soon as possible.
- C. Training.** Legal services personnel who will be participating in EOC operations shall receive training on the operating procedures for that facility.

X. ANNEX DEVELOPMENT & MAINTENANCE

- A. Development.** The County District Attorney and Office of Emergency Management are responsible for developing and maintaining this annex.
- B. Maintenance.** This annex will be reviewed annually and updated in accordance with the schedule outlined in Section X of the Basic Plan.

XI. REFERENCES

- A.** Texas Division of Emergency Management *Local Emergency Management Planning Guide (DEM-10)*.
- B.** FEMA *Comprehensive Preparedness Guide (CPG-101)*

APPENDICES:

Appendix 1	Sample Request for Emergency Declaration
Appendix 2	Sample Disaster Declaration
Appendix 3.....	Sample Extension of Disaster Declaration
Appendix 4.....	Sample Termination of Disaster
Appendix 5.....	Sample Emergency Powers
Appendix 6	Sample Disaster Declaration for Wildfire Threat
Appendix 7 ..	Sample Ban on Outdoor Burning
Appendix 8.....	Order of Mandatory Evacuation

SAMPLE REQUEST FOR EMERGENCY DECLARATION

The Honorable Greg Abbott
Governor of Texas
c/o State Coordinator
Texas Division of Emergency Management
P. O. Box 4087
Austin, Texas 78773-0001

Date:

Dear Governor Abbott:

The County of Brazoria, Texas, is facing significant threats to life, health and property due to:

[Provide a description of the threat and the area or areas affected. Threats may include:

- riot or unlawful assembly of three or more persons acting together by use of force or violence
- the existence of a clear and present danger of the use of violence
- a natural or man-made disaster

(For these threats, a disaster declaration may be more appropriate.)]

The potential impact of this threat is:

[Provide an estimate of the impact on public health, safety, and property if the threat is not dealt with.]

I have determined that this incident is of such severity and magnitude that an effective response is beyond the capability of Brazoria County to control. Pursuant to §433.001 of the Texas Government Code, I am requesting that you declare a state of emergency for Brazoria County, Texas, and issue appropriate directives to deal with the emergency; including:

[Indicate what measures that you want the Governor to take.]

Furthermore, I am asking that successive proclamations be issued and remain in effect until the threat of loss of life, injury, or damage property is contained.

A timely response to this request would be appreciated.

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE DISASTER DECLARATION

DECLARATION OF DISASTER

WHEREAS, the County of Brazoria on the ____ day of _____, 20____, has suffered widespread or severe damage, injury, or loss of life or property (or there is imminent threat of same) resulting from

[Briefly describe the disaster situation.] , and

WHEREAS, the Brazoria County Judge has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property,

NOW, THEREFORE, BE IT PROCLAIMED BY THE COUNTY JUDGE OF BRAZORIA COUNTY

1. That a local state of disaster is hereby declared for Brazoria County pursuant to §418.108(a) of the Texas Government Code.
2. Pursuant to §418.108(b) of the Government Code, the state of disaster shall continue for a period of not more than seven days from the date of this declaration unless continued or renewed by the Commissioners Court of Brazoria County.
3. Pursuant to §418.108(c) of the Government Code, this declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the County Clerk.
4. Pursuant to §418.108(d) of the Government Code, this declaration of a local state of disaster activates the county emergency management plan.
5. That this proclamation shall take effect immediately from and after its issuance.

ORDERED this the ____ day of _____, 20____.

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE EXTENSION OF DISASTER DECLARATION

COMMISSIONERS COURT ORDER

WHEREAS, on [____date____], the County Judge issued a proclamation declaring a state of disaster for Brazoria County resulting from

[Provide a brief description of the disaster];

WHEREAS, the conditions necessitating declaration of a state of disaster continue to exist; and

WHEREAS, §418.108(b) of the Texas Government Code provides that a local state of disaster may not be continued for a period of excess of seven days without the consent of the governing body of the political subdivision;

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT of BRAZORIA COUNTY:

1. That the state of disaster proclaimed for Brazoria County by the County Judge on _____ shall continue until terminated by order of the COMMISSIONERS COURT.

2. This order is passed as an emergency measure and pursuant to local authority for emergency measures and shall become effective on the ____ day of _____ , 20____ .

APPROVED, this ____ day of _____ , 20__.

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE TERMINATION OF DISASTER

COMMISSIONERS COURT ORDER

WHEREAS, on _____, the Brazoria County Judge, pursuant to the Texas Government Code, Chapter 418, (the "Texas Disaster Act"), issued a proclamation declaring a local state of disaster for the County of Brazoria resulting from:

[Describe the situation that occasioned the disaster declaration];

WHEREAS, the conditions necessitating the proclamation of a local state of disaster have ceased to exist; and

WHEREAS, the Texas Disaster Act provides that a local state of disaster may be terminated by the governing body of the political subdivision or by executive order of the County Judge,

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT:

1. The Commissioners Court, as the governing body of Brazoria County, hereby terminates the proclamation of a local state of disaster described in the preamble above.

2. A public emergency exists requiring that this ordinance be passed formally on the date of its introduction; therefore, this order] shall take effect immediately upon its passage and approval by the County Judge.

APPROVED, this ____ day of _____, 20__.

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE EMERGENCY POWERS

COMMISSIONERS COURT ORDER

WHEREAS, by proclamation issued [date of disaster declaration], the Brazoria County Judge declared a state of disaster for Brazoria County resulting from

[Briefly describe the situation]; and

WHEREAS, said state of disaster requires that certain emergency measures be taken pursuant to the Executive Order of the Governor Relating to Emergency Management; now, therefore, the following regulations shall take effect immediately upon issuance, and shall remain in effect until the state of disaster is terminated:

[Eliminate sections below describing measures that will not be used.]

1. CURFEW

- (a) A person shall not remain or travel upon any public or private property in the following area(s) between the hours of _____ and _____:

[Insert description of applicable areas]

- (b) Subsection (a) shall not apply to:

- (1) a person authorized by the Emergency Management Director to assist in the production of the health, safety, or welfare of the public; or
- (2) a person who remains or travels upon private property which is owned by him or upon which the person has been invited.

2. MOVEMENT OF PEOPLE AND OCCUPANCY OF PREMISES

- (a) A person shall not remain or travel upon any public or private property in the following area(s):

[Insert description of applicable areas]

- (b) Subsection (a) shall not apply to a person authorized by local government officials to assist in the protection of the health, safety, or welfare of the public.

3. UTILITIES

All utility services shall be discontinued in the following area(s):

[Insert description of applicable areas]

4. FLAMMABLE PRODUCTS

- (a) A person shall not sell or give away gasoline or other flammable or combustible products in the following area(s):

[Insert description of applicable areas]

- (b) All gasoline stations shall be closed in the following area(s):

[Insert description of applicable areas]

5. EXPLOSIVES

- (a) A person shall not sell, barter, loan, or give away arms, ammunition, dynamite, or other explosives in the following area(s):

[Insert description of applicable areas]

- (b) All establishments where arms, ammunition, dynamite, or other explosives are sold shall be closed in the following area(s):

[Insert description of applicable areas]

6. ALCOHOLIC BEVERAGES

- (a) A person shall not sell or distribute beer, wine, liquor, or alcoholic beverages of any kind in the following area(s):

[Insert description of applicable areas]

- (b) Subsection (a) shall not apply to the sale of medicine which contains alcohol.

7. PRICE CONTROLS

A person shall not taking advantage of a declared disaster by:

(A) selling or leasing fuel, food, medicine, or another necessity at an exorbitant or excessive price; or

(B) demanding an exorbitant or excessive price in connection with the sale or lease of fuel, food, medicine, or another necessity; this includes by way of illustration not limitation the selling or leasing any of the following goods or services for more than the price the person charged for the goods or services on (date of disaster declaration):

- (a) groceries, beverages, toilet articles, ice
- (b) construction and building materials and supplies, and earthmoving equipment and machinery
- (c) electrical and gas generating and transmission equipment, parts and accessories
- (d) charcoal briquettes, matches, candles, lamp illumination and heat unit carbides, dry batteries, light bulbs, flashlights, and hand lanterns

- (e) hand tools (manual and power), hardware and household supplies, and equipment rental
- (f) automotive parts, supplies, and accessories
- (g) plumbing and electrical tools and supplies
- (h) apartment, duplex, multi-family dwelling, rooming house, hotel and motel rental
- (i) gasoline, diesel oil, motor oil, kerosene, grease, and automotive lubricants
- (j) restaurant, cafeteria, and boarding-house meals
- (k) services of roofing and building contractors, plumbers, electricians, mechanics, tree surgeons, and automobile wrecker companies
- (l) medicine, pharmaceutical, and medical equipment and supplies
- (m) blankets, quilts, bedspreads, bed linens, mattresses, bedsprings, bedsteads, towels, sanitary products, and toiletries
- (n) furniture and clothing

8. SUSPENSION AND MODIFICATION OF ORDINANCES

- (a) The following ordinances and regulations are hereby suspended or modified as indicated:

[List the relevant ordinances and regulations]

- (b) The suspension or modifications of the ordinances and regulations listed in Subsection (a) shall remain in effect until (date 60 days from the date these regulations are issued), or until the state of disaster is terminated, whichever is sooner.

9. PENALTIES

- (a) These regulations shall have the effect of ordinances when duly filed with the County Clerk.
- (b) A person who violates any provision of these regulations, upon conviction, is punishable by a fine of not more than five hundred dollars (\$500.00).

10. EMERGENCY

This order shall take effect immediately from and after its passage and publication, and it is accordingly so ordained.

APPROVED, this ____ day of _____, 20__.

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE DISASTER DECLARATION FOR WILDFIRE THREAT
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PROCLAMATION

WHEREAS, Brazoria County has not had rainfall for an extended period and weather forecasters offer little promise of a change in the hot, dry conditions in the near future; and

WHEREAS, these hot, dry conditions pose the threat of large, dangerous and fast-moving wildfires; and,

WHEREAS, such fires have the potential of endangering lives and damaging property on a large scale; and

WHEREAS, Government Code 418 also known as the Texas Disaster Act of 1975 authorizes the governor to issue a declaration of a state of disaster "if the threat of disaster is imminent"; and

WHEREAS, the County Judge may exercise the powers granted to the governor under the Texas Disaster Act; and

WHEREAS, the magnitude of the potential damage and the rapidity at which such a fire could escalate to major proportions constitute an imminent threat of disaster; and

WHEREAS, declaration of such disaster authorized the imposition of controls on activities which tend to increase the likelihood of fires; and

WHEREAS, such controls, once implemented, have the potential of protecting lives and property by mitigating the threat of dangerous fires;

BE IT THEREFORE PROCLAIMED, that I, L. M. "Matt" Sebesta, Jr., County Judge of Brazoria County, do hereby declare a local state of disaster based on the threat of large wildfires in Brazoria County, Texas; and

BE IT ALSO PROCLAIMED that this local state of disaster will continue until rescinded in accordance with the above statute and order, but in no instance will this declaration continue for more than seven days without authorization by the Brazoria County Commissioners Court;

BE IT ALSO PROCLAIMED that this state of disaster is being declared solely for the purpose of implementing controls aimed at mitigating the hazard posed by wildfires during the current hot, dry weather.

BE IT ALSO ORDERED THAT the purpose of this order is the mitigation of the hazard posed by wildfires by curtailing the practice of outdoor burning, which purpose is to be taken into account in any enforcement action based upon this order

IN WITNESS WHEREOF, I affix my signature this ____ day of _____, 20____

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

SAMPLE BURN BAN

Prohibition of Outdoor Burning

WHEREAS, the Commissioners' Court find that circumstances present in all of the unincorporated area of the county create a public safety hazard that would be exacerbated by outdoor burning; and

WHEREAS, declaration of such disaster authorized the imposition of controls on activities which tend to increase the likelihood of such fires:

IT IS THEREFORE ORDERED by the Commissioners' Court that the following emergency regulations are hereby established for all unincorporated areas of Brazoria County, Texas for the duration of 90 days from the date of adoption of this Order, unless the restrictions are terminated earlier based on a determination made by this Court.

This Order is adopted pursuant to Local Government Code 352.081, and other applicable statutes. This Order does not prohibit outdoor burning activities related to public health and safety that are authorized by the Texas Commission on Environmental Quality for: (1) firefighter training; (2) public utility, natural gas pipeline; (3) 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.

1. Actions Prohibited:

A person violates this order if he or she burns any combustible material outside of an enclosure serving to contain all flames and/or sparks, or orders such burning by others.

2. Enforcement:

A. Upon notification of suspected outdoor burning, the fire department assigned to the location of the fire shall respond to the scene and take immediate measures to contain and/or extinguish the fire.

B. As soon as possible, a duly commissioned peace officer shall be sent to the scene to investigate the nature of the fire.

C. If in the opinion of the officer at the scene and/or the fire chief, the goal of the order can be attained by informing the responsible party about the prohibitions established by this order, the officer may, at his discretion, notify the party about the provisions of this order and request compliance with it. In such instances, an entry of the notification shall be made into the dispatchers log containing the time, date, and place of the warning, and the name of the person receiving the warning.

D. In accordance with Local Government Code 352.081(h), a violation of this Order is a Class C misdemeanor, punishable by a fine not to exceed \$500.00.

3. At the discretion of the peace officer or the fire chief, second or flagrant violations of this order may be prosecuted in accordance with the statutes and procedures governing misdemeanors.

BE IT ALSO ORDERED that this order may be enforced by any duly-commissioned peace officer and that the venue for prosecution of this order will be the Justice of the Peace.

APPROVED, this ____ day of _____, 20__

L. M. "Matt" Sebesta, Jr.
Brazoria County Judge

County Clerk

Order of Mandatory Evacuation From Brazoria County, Texas

Whereas, Brazoria County in accordance with Chapter 418 of the Texas Government Code has declared a local state of disaster on (Date) due to the _____

Whereas, the State of Texas in accordance with Chapter 418 of the Texas Government code has proclaimed a state of disaster on (Date);

Whereas, Brazoria County is under imminent threat of severe and widespread damage, injury, and loss of life and property from _____ and many businesses and residences will be exposed to looting, vandalism, other treats and the natural elements and remain under such threat at this date, thus necessitating immediate protection against loss;

Whereas, the County Judge of a county is authorized under the Constitution and Laws of the State of Texas to order the evacuation of all or part of the population from stricken or threatened areas under the jurisdiction and authority of the County Judge if the County Judge considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery; and

Whereas, _____ threatens the life and safety of persons and property in the unincorporated and incorporated areas of Brazoria County, Texas; and

Whereas, the County Judge of Brazoria County, Texas finds that a mandatory evacuation of the population from Brazoria County, Texas is necessary for the preservation of life or other disaster mitigation, response, or recovery.

NOW, THEREFORE, it is hereby **ORDERED** by the County Judge of Brazoria County, Texas, that:

1.) All of the population, except law enforcement and those persons with proper authority to remain, within the following areas of Brazoria County, Texas shall evacuate from Brazoria County, Texas in accordance with the following:

- Special needs persons shall evacuate from Brazoria County and such evacuation is MANDATORY beginning on (Date and time),
- Zip-Zone Coastal within Brazoria County, Texas: The population within the "Zip-Zone Coastal" designation (zip codes Blank) that is within Brazoria County, Texas, shall evacuate from Brazoria County and such evacuation is MANDATORY beginning on (Date and time);
- Zip- Zone A within Brazoria County, Texas: The population within the "Zip- Zone A" designated (zip codes blank) that is within Brazoria County, Texas, shall evacuate from Brazoria County and such evacuation is MANDATORY beginning on (Date and time);

- Zip- Zones Band C within Brazoria County, Texas: The population within the Zip-Zones Band C designations that are within Brazoria County, Texas (i.e., the remainder of Brazoria County, Texas) shall evacuate from Brazoria County and such evacuation is MANDATORY beginning on (Date and time).

2.) The sections, paragraphs, sentences, clauses and phrases of this Order are severable and, if any phase, clause, sentence, paragraph or section of the Order should be declared invalid by the final judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections or the Order that may be given effect without such phrase, clause, sentence, paragraph or section, and to this end the provisions of this Order are severable;

3.) All orders or parts thereof in conflict herewith are repealed to the extent of such conflict only;

4.) This Order shall be given prompt and general publicity and shall be filed promptly with the County Clerk of Brazoria County; and

6.) The Order shall take effect immediately from and after its issuance

It is hereby **ORDERED**, on this, (Date).

L. M. "Matt" Sebesta, Jr
Brazoria County Judge

ATTEST:

Brazoria County Clerk