

**ORDINANCE NO. 08-01**

An Ordinance For the Declaration of a Fire Danger Emergency

BE IT ORDAINED BY HAND COUNTY, SOUTH DAKOTA:

**Section 1. Legislative intent.**

South Dakota Codified Law 7-8-20(18), as amended, grants to the county commissioners' power "To prohibit or restrict open burning, after consultation with local fire officials and law enforcement officials, in order to protect the public health and safety."

In order to effectively administer this public policy and provide for effective public safety the Board of Commissions enacts this ordinance and establishes the "Open Burning Advisory Board".

The Open Burning Advisory Board shall have the duty to determine the appropriate times to restrict or "ban" burning and when to allow open burning.

**Section 2. Open Burning Advisory Board.**

The Open Burning Advisory Board shall consist of the representatives from following fire departments: Wessington, South Hand, Ree Heights, Polo, Orient, Redfield Rural, Tulare and Miller so long as they have recognized protection districts within Hand County. In additions to the various fire officials, the sheriff, the emergency manager and the chairperson for the Board of Commissions are members de facto.

Each member agency shall have one vote which shall be heard, upon request, as to whether a "burn ban" shall be implemented and subsequently rescinded. The Emergency Manager is charged with the duty to call for the votes, record the votes and report to the Board of Commissioners such decisions of the Open Burning Advisory Board. A simple majority shall affirm the decision.

There shall be no compensation for membership or duties performed by this board.

**Section 3. Open burning prohibited.**

During times when a "burn ban" is declared, all open burning of any substances shall be prohibited within any or all of the unincorporated areas of Hand County until such time as the Open Burning Advisory Board cancels said "burn ban".

**Section 4. Open burning defined.**

For purposes of this ordinance *open burning* means the intentional burning of any substance, whether natural or manmade, or the intentional casting off of any burning substance, whether natural or manmade, except the burning of such substances in a container sufficient so as to prohibit the escape of any of the burning substance, or any sparks, flames or hot ashes from the container. The escape of any of such burning substance, or the escape of any sparks, flames or hot ashes from any such container shall be deemed prima facie evidence that the container was insufficient so as to meet the exception from the definition of an open burning set forth herein. The maintaining of a fire in any interior fireplace, stove or furnace is specifically excluded from the definition of an open burning as contemplated by this ordinance.

**Section 5. Burn ban defined.**

For the purposes of this ordinance *burn ban* is a prohibition on open burning, a restriction of open burning during the period in which a burn ban is in effect.

**Section 6. Penalty and remedy.**

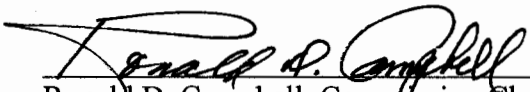
Any person that violates the provisions of this ordinance shall be guilty of a Class 2 misdemeanor and may be subject to a maximum penalty as provided in South Dakota Codified Law 22-6-2, or both. Each and every day that the violation continues may constitute a separate offense.

**Section 7. Enforcement.**

Enforcement of this ordinance shall rest with the fire officials from which protection area or district the property lies. A written complaint, signed under oath from the fire official shall be provided to the Office of the States Attorney at whose discretion the matter may be disposed. This does not preclude other interested parties with standing from filing a similar complaint in a similar matter.

First reading: June 5, 2008  
Second reading: July 1, 2008  
Publication date: July 9, 2008

Effective date: 07 / 29 / 2008

  
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Ronald D. Campbell, Commission Chair  
Hand County Commissioners

Attest

  
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Sandra Selting, Hand County Auditor