**ORDINANCE 2012-01**

**AN ORDINANCE ESTABLISHING REGULATIONS CONCERNING OPEN BURNING WITHIN FALL RIVER COUNTY, SOUTH DAKOTA**

**WHEREAS,** the County Commissioners of Fall River, South Dakota, desires to protect, promote, and enhance the welfare, safety, health, and property of the general public by restricting open burning within the boundaries of Fall River County.

**Ordinances**

Section 1. DEFINITIONS

1. **Burn Barrel** means a metal container used to hold combustible or flammable waste materials so that they can be ignited outdoors for the purpose of disposal. Burn Barrels must have a safety zone devoid of any combustible materials 15 feet in radius from the center of the Burn Barrel.
2. **Open Fire** means any outdoor fire, including campfires, that is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney. Open Fire shall not include Charcoal Grills or Liquid Fuel Grills. Open Fire shall not include burn barrels as defined herein.
3. **Charcoal Grill** shall mean a metal or stone device with the fire box not resting on the ground with a metal grate designed to cook food using charcoal briquettes, char wood, hard wood, or similar fuel.
4. **Liquid Fuel Grill** shall mean a metal or stone device designed to cook food using liquefied or gaseous combustible fuel.
5. **Fireworks** means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, sparklers other than those specified below, or fireworks of like construction, and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks. The term “fireworks” shall not include top pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture. The term also does not include wire or wood sparklers of not more than 100 gram of mixture per item, other sparkling items which are non-explosive and non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture.

**Planning & Zoning**

Section 2. CONTAINMENT

1. The ignition of fireworks, and open burning, to include barbeque grills using any fuels other than compressed gas fuels, and any other activity which could be reasonably calculated to lead to the ignition and / or spread of wildfires in Fall River County.
2. That open flame / burning will not be allowed on hot, dry, windy days or when the fire danger index, established by the SD Department of Agriculture, is high, very high, or extreme.
3. That pursuant to SDCL 34-37-19 the use of fireworks is hereby prohibited in any areas outside of municipal boundaries.

Section 3. SUPERVISION

1. That prior to any burning, the Fall River County Dispatch Center shall be notified at 745-5155. Additionally the burning shall be continually monitored to insure the fire is contained and completely extinguished. If the jurisdictional Fire Department agrees, they can be present and provide the monitoring requirement.

Section 4. EXEMPTIONS

1. That the area to which the prohibitions references above shall be applicable shall include the entire area of Fall River County excepting those lands falling within the boundaries of any municipality, the Black Hills Fire Protection District, the ditches and canals of the Angostura Irrigation District, State of South Dakota and the auspices of the United States.

Section 5. PENALTY FOR VIOLATIONS

That pursuant to SDCL 7-18A-2 the penalty for violating this resolution shall include a fine not to exceed five hundred dollars for each violation and/or by imprisonment for a period not to exceed thirty days for each violation, or by both such fine and imprisonment. Additionally, persons causing the ignition of any fire may be financially responsible for any and all suppression costs.

Section 6. All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted this 1st day of May, 2012.

First Reading: April 3, 1012

Second Reading: May 1, 2012

Fall River County Commissioner

/s/ Michael P. Ortner

Attest: Michael P. Ortner, Chairman

/s/ Sue Ganje

Sue Ganje, County Auditor