

ORDINANCE #404

An Ordinance rescinding Ordinance #392 and amending Ordinance #341 for Smoke Abatement Within the Corporate Limits of the city of Box Elder, South Dakota.

Be It Ordained by the Common Council of the City of Box Elder, Pennington County, South Dakota that the following restrictions and requirements be implemented for the safety and welfare of the citizens, environment, livestock and wildlife within the corporate limits of Box Elder.

- 1.00 **Open Burning Restricted:** No person shall, at any time, engage in open burning activities within the area regulated by this Ordinance, except under the following conditions:
1. Open burning for fire department personnel training;
 2. Open burning of a fire hazard, or open burning for noxious weed control or fire control, and solely with the permission of the local fire department.
 3. For ecosystem management purposes, and solely under the supervision of State or Federal land and/or wildlife management agencies;
 4. Open burning of irrigation ditches for agricultural purposes, and solely with the permission of the local fire department; or
 5. Conduct a salvage operation by open burning pursuant to ARSD 74:27.
 6. Outside incinerators may be used if approved by the Box Elder Fire Department.

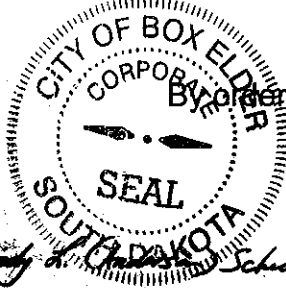

In no event may a person burn the following:

1. Waste oils, rubber, tires, tarpaper, or asphalt shingles. For the purpose of this regulation, waste oil means any oil that has been refined from crude oil, used and contaminated by physical or chemical impurities as a result of such use;
 2. Solid waste by a governmental agency unless exempted by the small town exemption in accordance with ARSD 74:27:12:25;
 3. Conduct or permit the operation of a salvage operation by open burning, except as allowed in article 74:27; or
 4. Railroad ties or wood treated with inorganic arsenicals, pentachlorophenol, or creosols.
- 1.01 **Open Burning Approval Required:** No person may, at any time, engage in a permitted open burning for any purpose without first notifying the appropriate agency and attaining approval of the planned open burning. Final approval will be determined by the local fire department. Upon final approval, the local fire department shall issue a permit which must be

available on the site during the burn. No burn, within the corporate limits of the City of Box Elder, may be left unattended for the duration of the burn.

- 1.02 **Open Burning – No Approval Required:** This Ordinance is not intended to limit or prohibit the use of wood furnaces, fire places or pellet stoves for the use of home heating. Open burning shall be permitted in an approved fire/camp/bar-b-que pit or grill designed for the cooking of food.
- 1.03 **Fire Suppression Capability:** Prior to issue of approval and/or a permit for a burn, the local fire department shall ensure that adequate fire suppression capability exists. If the property owner can not provide adequate fire suppression capability for the duration of the burn, the local fire department must be present with suppression capability available on site for the duration of the burn.
- 1.04 **Penalties:** Burning, within the corporate limits of the City of Box Elder, or without prior approval by the appropriate agency, or without first obtaining a permit, or not having the permit and/or fire suppression capability available on site during the burn, shall be deemed a Class II Misdemeanor. Violators are subject to receive a fine of two hundred dollars (\$200.00) and/or thirty days in jail. Each day a violation exists shall be considered a new and separate violation subject to the penalties set forth in this paragraph.
- 1.05 **Health, Safety and Welfare:** In addition to the preceding, the local Fire Department may stop any open burn at any time if it is determined to be in violation of this Ordinance or if it threatens the health, safety and welfare of the citizens of Box Elder.

Be It Further Ordained that this Ordinance shall become effective in accordance to law.

Seal:  By order of the Box Elder Common Council
Attest: 

Cindy L. (Anderson) Schickert
Finance Officer

Vern Kienzle
Mayor

First Reading – January 6, 2004
Second Reading – January 20, 2004
Date Published – January 30, 2004