

Pub. Dec. 17th

**ORDINANCE NO. 435**

**AN ORDINANCE RESCINDING ORDINANCE 340, 396 and 402 UPDATING THE MUNICIPAL SALES AND SERVICE TAX AND USE TAX FOR THE CITY OF BOX ELDER, PENNINGTON COUNTY, SOUTH DAKOTA.**

Be It Ordained by the Common Council of the City of Box Elder, Pennington County, South Dakota that Ordinance 340, 396 and 402 be rescinded and Ordinance 435 be substituted:

Section 1. PURPOSE. The purpose of this ordinance is to provide additional needed revenue for the City of Box Elder, Pennington County, South Dakota, by imposing a municipal retail sales and use tax pursuant to the powers granted to the City of Box Elder by the State of South Dakota, by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

Section 2. EFFECTIVE DATE AND ENACTMENT OF TAX. From and after the first day of January 2006, there is hereby imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent (2%) on the gross receipts of all persons engaged in business within the jurisdiction of the City of Box Elder, Pennington County, South Dakota, who are subject to the South Dakota Retail Occupational Sales and Service Tax, SDCL 10-45 and acts amendatory thereto.

Section 3. USE TAX. In addition there is hereby imposed an excise tax on the privilege of use, storage and consumption within the jurisdiction of the City of Box Elder of tangible personal property or services purchased from and after the first day of January 2006, at the same rate as the municipal sales and service tax upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

Section 4. COLLECTION. Such tax is levied pursuant to authorization granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulation in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules and regulations as the Secretary of Revenue and Regulation of the State of South Dakota shall lawfully prescribe.

Section 5. INTERPRETATION. It is declared to be the intention of this ordinance and the taxes levied hereunder that the same shall be interpreted and construed in the same manner as all sections of the South Dakota Retail Occupational Sales and Service Act, SDCL 10-45 and acts amendatory thereto and the South Dakota Use Tax, SDCL 10-46 and acts amendatory thereto, and that this shall be considered a similar tax except for the rate thereof to that tax.

Section 6. PENALTY. Any person failing or refusing to make reports or payments prescribed by this ordinance and the rules and regulations relating to the ascertainment and collection of the tax herein levied shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the municipal jail for thirty (30) days or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulation.

Section 7. SEPARABILITY. If any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstances held invalid the constitutionality of the remainder of the ordinance and applicability thereof to other persons or circumstances shall not be affected thereby.

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

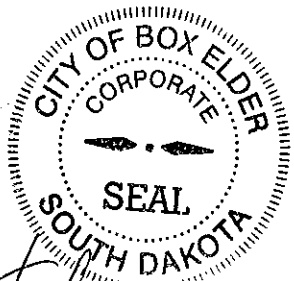
**By Order of the Common Council**

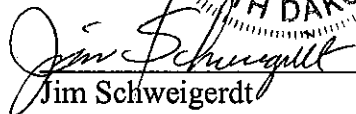
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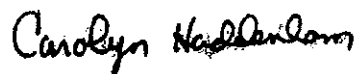
Seal:

Attest:





Jim Schweigerdt  
Finance Officer



Carolyn Haddenham  
Mayor

First Reading: November 15, 2005.  
Second Reading: December 13, 2005  
Date Published: December 17, 2005