

**ORDINANCE 542**  
**GARBAGE DEPOSIT**

BE IT ORDAINED by the Common Council of the City of Box Elder, as follows:

**ARTICLE 1 – PURPOSE AND JURISDICTION**

**SECTION 1 – PURPOSE**

Ordinance 542 is an ordinance regulating the deposit of garbage in generally accepted receptacles within the City of Box Elder. The Common Council of the City of Box Elder has deemed these regulations and controls to be reasonable and reasonably related to the health, safety and welfare of the residents of the City of Box Elder and to protect the people from unreasonable damages to their property and financial welfare.

**SECTION 2 – JURISDICTION**

This ordinance shall govern all territory within the statutory jurisdiction of the City of Box Elder, South Dakota.

**SECTION 3 – SEVERABILITY AND SEPARABILITY**

Should any Article, Section, Subsection, or Provision of this ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

**ARTICLE II – DEFINITIONS**

For the purpose of this ordinance, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive.

**CITY:** The City of Box Elder, South Dakota.

**COUNCIL:** The Common Council of the City.

**GARBAGE:** Any item of trash or refuse intended to be discarded by the owner. Garbage shall also include any other materials considered to be a nuisance by Ordinance.

**GARBAGE RECEPTACLE:** A container specifically designed or commonly used to collect, store or transport trash, garbage, or refuse.

**SECTION 2 – USE OF GARBAGE RECEPTACLES**

A. All persons wishing to dispose of garbage, trash, or refuse must use a garbage receptacle that adequately contains said garbage.

B. All garbage receptacles used must be in good working order so as not to allow garbage to escape the receptacle and travel to the property of another or upon the property of the City of Box Elder.

C. No person may use the garbage receptacle of another without express permission of the owner of, or person responsible for, the receptacle.

D. All persons using an approved receptacle must obey any signs or instructions providing for the use of that garbage receptacle.

E. All signs regarding instructions for use or prohibitions of use must be conspicuously posted on or near the garbage receptacle.

F. All owners of those responsible for garbage receptacles must ensure that the garbage, trash or refuse collected in the receptacle is consistently collected and may not allow the items collected to exceed the container. Should any garbage be removed from the container or allowed to lay outside the container, the owner or party responsible for the garbage receptacle shall be responsible to return the garbage to the receptacle. No garbage may remain outside of the receptacle for over 12 hours.

### SECTION 3 – EXCEPTIONS

A. If garbage, trash or refuse has been deposited in a garbage receptacle without the permission of the owner or person responsible for the receptacle and that garbage escapes the container it shall not be the responsibility of the owner or responsible party to return that garbage to the receptacle, unless the owner has had at least 12 hours notice and the opportunity to clean up or remove the escaped garbage.

B. A garbage receptacle that has been rendered inadequate by acts of nature, damage by negligence of another and allows garbage, trash or refuse to escape the container will be exempt from the provisions of this ordinance for a period not to exceed 7 business days from the time of damage.


### ARTICLE III – VIOLATIONS AND PENALTIES

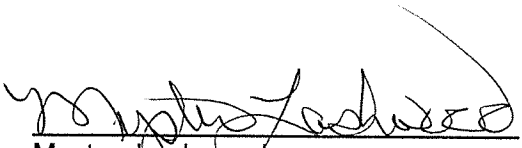
A violation of any provision of this ordinance or any amendment thereto, or a failure to perform any act required hereunder, is a Class II Misdemeanor. The fine for a violation of this ordinance shall be no less than \$120.00. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case and any restitution necessary to repair damages including the cost of cleanup. The City may abate said nuisance and assess the cost to the offending party including assessing any real property involved pursuant to South Dakota law. Any violation of this ordinance is hereby declared to be a public nuisance per se.

BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder that his ordinance shall become effective in accordance to law.

CITY OF BOX ELDER

ATTEST

  
William Griffiths  
Mayor

  
Mystee Lashwood  
Finance Officer

First Reading: January 21, 2014  
Second Reading: February 4, 2014  
Date Published: February 8, 2014