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**ORDINANCE NO. 788****AN ORDINANCE AMENDING CHAPTER 14, FIRE PREVENTION, PROTECTION, AND CONTROL,  
THE CITY OF BOX ELDER MUNICIPAL CODE**

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**WHEREAS**, the Municipal Code of the City of Box Elder provides fire prevention, protection, and control within its municipal boundaries; and

**WHEREAS**, the City of Box Elder finds it necessary to modify Chapter 14 of the municipal code which addresses businesses within the city; and

**WHEREAS**, this ordinance supersedes and replaces all previous ordinances and resolutions hereto relating to the subject matter hereof.

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of the City of Box Elder, that the City of Box Elder Municipal Code be amended to read as follows (new language shall be indicated by underscore, and language to be deleted shall be indicated by strike-through):

**Chapter 14 Fire Prevention, Protection, and Control**

## DIVISION 14-III-3 FIREWORKS

Sec 14-98 Definitions

Sec 14-99 State And Local Sales Licenses Required

~~Sec 14-100 Temporary And Annual Licenses Available; Period During Which Sales Are Permitted~~

~~Sec 14-101 Application Procedure~~~~Sec 14-102 Storage And Sales Restrictions~~~~Sec 14-103 Signs Required~~

Sec 14-104 Discharge Restrictions; Public Display Permits

Sec 14-105 Division Does Not Apply To Pyrotechnical Signal Devices

Sec 14-106 Violations And Penalties

State law reference(s)—Generally, SDCL ch. 34-37; possession of unauthorized fireworks unlawful, SDCL 34-37-16; public display of fireworks, SDCL 34-37-13; minimum distance for igniting fireworks, SDCL 34-37-10.4; permissible fireworks, SDCL 34-37-5.

Sec 14-98 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fireworks means devices designed to produce audible or visible effects by combustion as set forth in SDCL ch. 34-37, and are considered consumer goods for purposes of city zoning regulations.

Fireworks sales means the retail or wholesale sale of fireworks as set forth in SDCL ch. 34-37.

(Ord. No. 510, art. II, 5-17-2011)

State law reference(s)—Similar definitions, SDCL 34-37-1.

Sec 14-99 State And Local Sales Licenses Required

**See Chapter 8 Article VII – Fireworks Sales Licenses**

~~No person shall sell fireworks within the city's jurisdiction without first obtaining an approved fireworks sales license. Any person licensed under this division must also hold a license under SDCL 34-37-2.~~

~~(Ord. No. 510, art. III, § 1, 5-17-2011)~~

~~State law reference(s)—Licensed required for sale, SDCL 34-37-2.~~

~~Sec 14-100 Temporary And Annual Licenses Available; Period During Which Sales Are Permitted~~

~~Both temporary and annual fireworks licenses are issued by the city. The holder of an approved temporary class fireworks sales license may sell fireworks to individuals at retail within the city's jurisdiction during the period beginning June 27 to July 5. The holder of an approved annual class fireworks sales license may sell fireworks within the city's jurisdiction at wholesale during the term of the fireworks sales license or at retail to individuals during the periods of May 1 to August 31 and December 26 to January 2.~~

~~(Ord. No. 510, art. III, § 2, 5-17-2011)~~

~~State law reference(s)—Period during which discharge of fireworks permits, SDCL 34-37-16.1.~~

~~Sec 14-101 Application Procedure~~

~~1. Any person who is required by this division to possess a fireworks sales license shall first submit an application to the planning department. Applications must be received by the planning department no later than May 1 of the year for which sales are intended.~~

Applications received between May 2 and December 31 shall be denied by the planning department and returned to the applicant together with any application fee submitted.

2. Application shall be made on a form provided by the planning department and shall be accompanied by a fee in the amount provided in the city fee schedule, proof of liability insurance coverage of at least \$2,000,000.00, a scaled site plan of the proposed sales site, a copy of the applicant's state sales tax license, and a copy of the appropriate state fireworks sales licenses. The application fee shall be non-refundable for all fireworks sales license applications that are approved by the planning department.

3. The planning and zoning commission shall review each fireworks sales license application at the next planning and zoning commission meeting that will be held more than seven days after the complete application is received by the planning department. The planning and zoning commission may recommend to the council that the application be approved or denied based upon the applicant's proposed sales location, zoning, proposed signage, building code compliance of the sales location, code enforcement compliance history, record of compliance with city fireworks regulations, record of compliance with state fireworks regulations, or other factors considered relevant by the planning and zoning commission.

4. The council shall review and may approve each fireworks sales license application at its next regular meeting after the planning and zoning commission's recommendation is made. The council shall, in its sole discretion, issue the fireworks sales licenses it deems are compliant with the purposes of this article.

5. The council shall approve no more than six temporary class fireworks sales licenses for any given year. No one person, or legal entity with substantially the same ownership as the person, shall be issued more than two such licenses.

6. The fireworks sales license, if approved by the council, shall expire on April 30 of the year following the approval.

(Ord. No. 510, art. III, §§ 3, 4, 5-17-2011)

#### Sec 14-102 Storage And Sales Restrictions

1. No person shall store or sell fireworks within the city's jurisdiction without first obtaining the written permission of the landowner of the sales location and a license from the city pursuant to this division.

2. The storage and sale of fireworks within the city is restricted to structures that are no closer than 50 feet to any other structure used for commercial, industrial, or residential use. Temporary structures used for the storage and sale of fireworks shall not be located closer than 150 feet to any structure used for the storage and sale at wholesale of fireworks. Permanent structures used for the storage and sale of fireworks shall not be located closer than 50 feet to any structure used for the storage and sale at wholesale of fireworks.

3. The storage and sale at retail of fireworks by the holder of a temporary class fireworks sales license may be made from a temporary structure erected for those purposes that has adequate means of egress and that meets the city's current building code

requirements. Such temporary structure shall be erected no more than 20 days before the allowed sales period and shall be removed no more than 20 days following the allowed sales period. Storage of fireworks in such temporary structures shall not be allowed more than 15 days before or after the allowed sales period.

4. — The storage and sale at retail of fireworks by the holder of an annual class fireworks sales license may be made from a permanent structure used solely for the storage and sale of fireworks and that meets the city's current building code requirements.

5. — All structures used for the storage or sale of fireworks shall comply with the city's currently adopted building code before commencement of and during the storage or sales. One or more inspections by a building official may be required as a condition of approval of a fireworks sales license. Random, unannounced inspections by a building official or code enforcement official may be conducted to ensure continuing compliance with the adopted building code or the requirements of this division.

(Ord. No. 510, art. III, § 5, 5-17-2011)

#### Sec 14-103 Signs Required

All holders of approved fireworks sales licenses shall post a prominent sign, using letters at least one inch tall, at the point of sale that informs customers of the following:

1. — It is unlawful to resell or otherwise transfer any fireworks within the city;
2. — It is unlawful to use an out of state driver's license to purchase fireworks that will be stored for more than two days within the city;
3. — No one under the age of 16 years can purchase fireworks unless accompanied by a parent or legal guardian;
4. — The use or discharge of fireworks within the city limits is prohibited unless first authorized by the common council of the city;
5. — Violation of this section is a Class 2 misdemeanor.

(Ord. No. 510, art. III, § 6, 5-17-2011)

#### Sec 14-104 Discharge Restrictions; Public Display Permits

1. The use or discharge of fireworks in the jurisdiction of the city is banned unless allowed by resolution by the council on an annual basis. Such resolution may only be adopted when the state grassland fire danger index is below or is expected to remain below the very high or extreme category.
2. Nothing in this division shall be construed as prohibiting the possession or discharge of fireworks within the city for public display in compliance with SDCL 34-37-13. However, any person, before making such public display of fireworks, shall secure a written permit from the council. The person requesting the written permit shall submit a letter of request to the finance officer at least 30 days before the date of the public display. There shall be no charge by the city for the written permit.

(Ord. No. 510, art. IV, §§ 1, 2, 5-17-2011)

State law reference(s)—Public display of fireworks, SDCL 34-37-13.

**Sec 14-105 Division Does Not Apply To Pyrotechnical Signal Devices**

Nothing in this division shall be construed to prohibit the manufacture, storage, sale, use, or possession within the city of pyrotechnical signal devices necessary for the safe operation of railroads or other classes of public or private transportation, nor applying to the military forces of the United States or its various states, or to peace officers, nor blank cartridges for ceremonial, theatrical, or athletic events, nor items commonly known as sparklers or toy paper caps.

(Ord. No. 510, art. IV, § 3, 5-17-2011)

**Sec 14-106 Violations And Penalties**

Violations of this division constitute Class 2 misdemeanor. In addition to any penalty assessed herein or by the court, the violator found guilty shall pay all court costs and expenses involved in the case.

(Ord. No. 510, art. V, 5-17-2011)

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of the City of Box Elder, that the City of Box Elder Municipal Code be amended to read as follows (new language shall be indicated by underscore, and language to be deleted shall be indicated by strike-through):

**PASSED AND APPROVED ON FIRST READING** this 3<sup>rd</sup> day of March, 2026.

**PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING** this 17<sup>th</sup> day of March, 2026.

**ATTEST:**



\_\_\_\_\_  
Renee Baker, Finance Officer



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Larry Larson, Mayor



**ATTESTATION**

I, Chaz Kokesh, the City Clerk of the City of Box Elder, South Dakota, do hereby attest and state the above resolution was published in the manner required by law and that all procedures required by the State of South Dakota law were complied with. This resolution shall become effective on April 16 2026.

Chaz Kokesh  
Chaz Kokesh, City Clerk