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**ORDINANCE NO. 789****AN ORDINANCE AMENDING CHAPTER 8, BUSINESSES, THE CITY OF BOX ELDER MUNICIPAL CODE**

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**WHEREAS**, the Municipal Code of the City of Box Elder provides Businesses licensing information within its municipal boundaries; and

**WHEREAS**, the City of Box Elder finds it necessary to modify Chapter 8 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 add a new Article to Chapter 8 Businesses:

**Chapter 8 Businesses****ARTICLE 8-VII FIREWORKS SALES LICENSES**

Sec 8-250 Definitions

Sec 8-251 State And Local Sales Licenses Required

Sec 8-252 Temporary And Annual Licenses Available; Period During Which Sales Are Permitted

Sec 8-253 Application Procedure

Sec 8-254 Storage And Sales Restrictions

Sec 8-255 Signs Required

Sec 8-256 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 8-250 Definitions**

The following words, terms and phrases, when used in this Article, 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.

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

### **Sec 8-251 State And Local Sales Licenses Required**

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

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

### **Sec 8-252 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 a temporary fireworks 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 annual fireworks license may sell fireworks to out-of-state residents within the City's jurisdiction at wholesale during the term of the fireworks sales license or at retail to out-of-state residents during the periods of May 1 to August 31 and December 26 to January 2.

State law reference(s)—Period during which use of fireworks permitted, SDCL 34-37-16.1.

### **Sec 8-253 Application Procedure**

#### Application submission

a. Any person required by this article to possess a fireworks sales license shall submit a complete application to the City.

#### Application Contents

a. Applications shall be accompanied by:

- 1) The fee as provided by the City Fee Schedule.
- 2) Proof of liability insurance of at least \$2,000,000.
- 3) A scale-sized site plan of the proposed sales location.
  - i) If the proposed sales location is not owned by the applicant, the application shall include a written authorization from the property owner permitting the sale of fireworks at the proposed location.
- 4) A copy of the applicant's state sales tax license.

5) A copy of the appropriate state fireworks sales license.

Application fees are non-refundable once an application has been reviewed for compliance.

#### Administrative Review and Issuance

- a. The City shall review each application for compliance with this article, applicable zoning, building and fire codes, and state law. If an application is complete and compliant and the maximum number of licenses has not previously been issued, the City shall issue the fireworks sales license.

#### Denial

- a. If the City determines an application is incomplete, not compliant with this article or state law or the maximum number of licenses has previously been issued, the City may deny the application and provide written notice of the reason(s) for denial.

#### Limits on temporary licenses

- a. No more than six (6) temporary fireworks sales licenses may be issued in any calendar year. No person or legal entity with substantially the same ownership shall be issued more than two (2) temporary licenses in any calendar year.

#### License Term

- a. A fireworks sales license issued under this article expires on April 30th of the year following the issuance, unless sooner revoked or suspended.

#### **Sec 8-254 Storage And Sales Restrictions**

- a. No person shall store and sell fireworks within the city unless authorized by the property owner and licensed by the City pursuant to this article.
- b. 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.

- c. The storage and sale at retail of fireworks by the holder of a temporary 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.
- d. The storage and sale at retail of fireworks by the holder of an annual 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.
- e. 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 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 Article.

**Sec 8-255 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:

- a. It is unlawful to resell any fireworks within the City.
- b. The use or discharge of fireworks within the city limits is prohibited unless first authorized by the common council of the City.
- c. Violation of this section is a Class 2 misdemeanor.

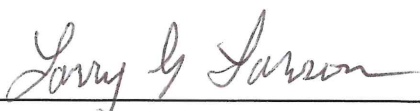
**Sec 8-256 Violations And Penalties**

Violations of this article 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.

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:

  
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 Larry Larson, Mayor

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Renee Baker, Finance Officer



**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.

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Chaz Kokesh, City Clerk