

ORDINANCE NO. 385

AN ORDINANCE OF BOX ELDER COUNTY AMENDING ORDINANCE 311

WHEREAS, it has come to the attention of the Box Elder County Commission that the current ordinance of Box Elder County which regulates burning within the corporate limits of the county does not adequately address issues relating to all of the issues related to open burning in Box Elder County and where there have been some recent changes to state rules regarding open burning; and

WHEREAS, the current ordinance was previously amended, but never restated in its entirety and for was of publication and reference, the ordinance should be both amended and restated in its entirety; and

WHEREAS, the Box Elder County Commission, after reviewing the amended and restated language of the ordinance, as set forth below, finds that the amendment and restatement addresses the issues relating to the Springtime burning of fence lines on cultivated lands, canals and irrigation ditches; and

WHEREAS, the Box Elder County Commission finds and determines that the amendment and restatement of the ordinance, as set forth below, is the best interest of the residents of Box Elder County and will promote the general health, welfare and safety of the residents of Box Elder County;

NOW THEREFORE, the Box Elder County Commission, acting as the legislative body of Box Elder County, does hereby ordain as follows:

SECTION 1: ORDINANCE AMENDMENT AND RESTATEMENT.

Burning by Permit Only. Except as otherwise provided herein. It shall be unlawful to burn within the corporate limits of Box Elder County without first obtaining a burn permit issued by Box Elder County.

1. **Exceptions – No Permit Required.** When not otherwise prohibited by any applicable statute, ordinance or other regulation, and provided that a “public nuisance” as defined by Utah Code is not created, no burn shall be required for the following:
 - a. Burning in connection with the ordinary and normal operation of device for the primary purpose of preparing food, such as outdoor grills and fireplaces.
 - b. Burning in campfires used solely for recreational purposes where such burning is under the control of a responsible person.
 - c. Burning in indoor fireplaces and other residential solid burning devices.
 - d. Burning in connection with properly operated industrial flares for combustion of flammable gasses.
2. **Burning Requirements.** The following requirements shall apply to any and all burning, whether by permit or otherwise, within the corporate limits of Box Elder County:

- a. All burning must be supervised and tended by an individual actually remaining at the site of the burning during the entire time of the burning.
- b. Except for the burning of fence lines on cultivated land, canals or irrigation ditches, all ashes must be completely extinguished and properly disposed of or incorporated into the ground within twenty four (24) hours of the burning being extinguished.
- c. No burning shall be conducted in a manner which unreasonably poses a threat to forest lands, range lands, watershed lands, improvement, personal property and/or adjacent properties.
- d. No Burning shall create a "public nuisance" as defined by Utah Code.

3. **Issuance of Burn Permits.** Burn permits shall be issued by the Box Elder County Fire Marshal in accordance with the following:

- a. The County Fire Marshal shall establish a reasonable procedure for the application and issuance of burn permits.
- b. In determining whether or not to issue a burn permit, the County Fire Marshal shall take into consideration issues related to the "clearing index" in accordance with the following:

(1) When the clearing index is less than five hundred (500) feet within the corporate limits of Box Elder County, no burning shall occur within the corporate limits of Box Elder County, except such limited burning as may be allowed at the discretion of the County Fire Marshal. The County Fire Marshal shall, on exercising his/her discretion, consider the time of day, the potential for the clearing index to rise above five hundred (500) feet, the difference in the clearing index between the point of measurement and the point of proposed burning consumed in the proposed burning, the quality of the material to be consumed in the proposed burning, and the length of the proposed burn.

- c. The County Fire Marshal may impose additional requirements and conditions upon any burn permit which he/she deem appropriate and necessary for the health, safety and welfare of the applicant and/or the residents of Box Elder County.

- d. All Burn permits issued by the County Fire Marshal, in addition to any requirements or conditions imposed by the County Fire Marshal, shall be subject to the following requirements:

1) No burning shall be started before 8:00 a.m. or after 6:00 p.m.

- a. on occasion where special circumstances and weather patterns are favorable for an earlier start time and on-site weather monitoring is in place, a burn may be given advanced permission to burn before 8:00 a.m.

2) No burning shall occur on any Sunday.

3) All burning shall be completely extinguished one (1) hour before sunset.

a. During the spring, orchard growers may get a long term permit for the purpose of burning tree prunings, this will allow a grower to continually burn prunings until Saturday night at midnight or a day with a clearing index below 500 is reached. The grower is responsible to check the clearing index every day and voluntarily cease burning if the index falls below 500.

4) The burn permit number must be present at the site of the burning during all times that supervision of the fire is required by this ordinance.

5) No burning shall occur during the week of Box Elder County Fair from Monday through and including Saturday of the Fair

(5) Types of open burning for which a permit may be granted are:

(a) Except in nonattainment and maintenance areas, open burning of tree cuttings and slash in forest areas where the cuttings accrue from pulping, lumbering, and similar operations, but excluding waste from sawmill operations such as sawdust and scrap lumber.

(b) Open burning of trees and brush within railroad rights-of-way provided that dirt is removed from stumps before burning, and that tires, oil more dense than #2 fuel oil, tar, or other materials which can cause severe air pollution are not present in the materials to be burned, and are not used to start fires or to keep fires burning.

(c) Open burning of a fire hazard that the county or municipal fire authority determines cannot be abated by any other viable option.

(d) Open burning of highly explosive materials when a county or municipal fire authority, law enforcement agency or governmental agency having jurisdiction determines that onsite burning or detonation in place is the only reasonably available method for safely disposing of the material.

(e) Open burning for the disposal of contraband in the possession of public law enforcement personnel provided they demonstrate to the county or municipal fire authority that open burning is the only reasonably available method for safely disposing of the material.

(f) Open burning of clippings, bushes, plants and prunings from trees incident to property clean-up activities, including residential cleanup.

6. **Provisions Subject to other Statutes , Regulations and orders.** The provisions of this ordinance shall be limited by and are subject to applicable Federal and State statutes, regulations, declarations for closed fire season, the order of a law enforcement officer, the order of the County Fire Marshall or his/her designated agent.

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7. **Consent of Utah Division of Wildlife Resources.** Any burning on any property leased, owned or controlled by the Utah Division of Wildlife Resources, or its designated agent.

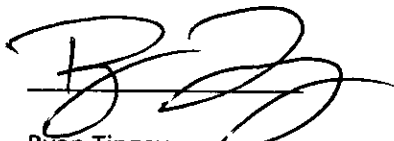
8. **Residential Burn windows.** The Utah Division of Air Quality has designated two open burn windows for residential clean up, these windows are March 30th to May 30th and September 15th through October 30th. These windows are the only burn permits can be issued for non agriculture burning.

9. **Burn Barrels:** in keeping with State ordinances burn barrels are primarily used to burn rubbish and house hold trash, therefore this type of burning is not allowed in the County.

10. **Penalties and Liabilities.** Any violation of or failure to comply with any of the provisions of this ordinance shall, for each day such violation or non compliance, constitute a Class B Misdemeanor, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00) and/or imprisonment for not more than the six (6) months, or both, for each separate offence. Any person responsible for the existence or spread of any uncontrolled or unattended fire, or any other fire on public or private property, necessitating suppression action by the County or State of Utah shall be liable for the County or State of Utah for the payment of all costs incurred for said suppression.

This Ordinance shall become effective immediately upon its approval and passage by the County Commission and subsequent publication as required by law.

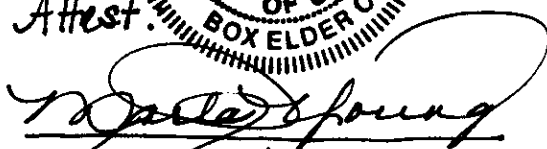
PASSED AND ADOPTED by the Box Elder County Commission this 23 day of April, 2014


Ryan Tingey

Box Elder County Commission Chairman



Attest.


Marla R. Young
Box Elder County Clerk