ORDINANCE NO. 311

AN ORDINANCE OF BOX ELDER COUNTY AMENDING AND RESTATING THE COUNTY'S BURN ORDINANCE AS PREVIOUSLY ADOPTED BY ORDINANCE NO. 177 AND SUBSEQUENTLY AMENDED BY ORDINANCE NO. 272 AND ORDINANCE NO. 254.

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 the Springtime burning of fence lines on cultivated lands, canals and irrigation ditches; and

WHEREAS, the current ordinance was previously amended, but never restated in its entirety and for ease 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 in the best interests 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. Ordinance No. 177, as previously amended, is hereby amended and restated to read in its entirety as follows:

1. **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.

2. **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 §76-10-803 of the Utah Code is not created, no burn permit shall be required for the following:

a. Burning of fence lines on cultivated lands, canals or irrigation ditches, provided that such burning is conducted in compliance with the applicable provisions of this ordinance.

b. Burning in connection with the ordinary and normal operation of devices for the primary purpose of preparing food, such as outdoor grills and fireplaces.

c. Burning in campfires used solely for recreational purposes where such burning is under the control of a responsible person.

d. Burning in indoor fireplaces and other residential solid burning devices.

e. Burning in connection with properly operated industrial flares for combustion of flammable gasses.

3. **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, improvements, personal property and/or adjacent properties.

d. No burning shall create a "public nuisance" as defined by §76-10-803 of the Utah Code .

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

   a. The County Fire Marshall 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 Marshall shall take into consideration issues relating to the "clearing index" in accordance with the following:

      1) The corporate area of Box Elder County shall be divided into twelve (12) zones, numbered 1 thru 12 as shown on Exhibit "A" attached hereto, and the maximum number of acres per zone which may be actually burning at any given time shall be dependent upon the status of the clearing index for that particular day, all as shown on Exhibit "B" attached hereto.

      2) 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 Marshall. The County Fire Marshall shall, in 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, the number of fires already burning, if any, the quantity of material to be 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 Marshall may impose additional requirements and conditions upon any burn permit which he/she deems 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 Marshall, in addition to any requirements or conditions imposed by the County Fire Marshall, shall be subject to the following requirements:

1) No burning shall be started before 10:00 a.m. or after 6:00 p.m.

2) No burning shall occur on any Sunday or Monday.

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

4) No burning shall occur in any area which has received any precipitation within the immediately preceding 24 hours prior to the start of any burning.

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

6) No burning shall occur during the week of the Box Elder County Fair from Tuesday through and including Saturday of that week.

5. **Burning of Fence lines, Canals and/or Irrigation Ditches.** The burning of fence lines on cultivated lands, canals and irrigation ditches does not require a burn permit under the following conditions:

a. The burning can only take place on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays or Saturdays during the period of March 10th thru May 10th.

b. A notification of the date, time and location of the burning must be provided to the Box Elder County Sheriff's Office and an authorization to burn identification number must have been received from the Box Elder County Sheriff's Office prior to the start of any

burning. Such notification must be made and identification number obtained during normal business hours on Monday thru Friday, and any notification for burning on a Saturday must be made no later than the preceding Friday.

c. No burning shall be started before 10:00 a.m. or after 6:00 p.m., and all burning shall be extinguished one (1) hour before sunset.

The burning of fence lines on cultivated lands, canals and irrigation ditches under any other circumstances shall require the issuance of a burn permit.

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

7. **Consent of Utah Division of Wildlife Resources.** Any burning on any property leased, owned or controlled by the Utah Division of Wildlife Resources as wild lands or wildlife habitats shall require the consent of the Utah Division of Wildlife Resources, or its designated agent.

8. **Penalties and Liabilities.** Any violation of or failure to comply with any of the provisions of this ordinance shall, for each day of 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 the six (6) months, or both, for each separate offense. 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 to the County or State of Utah for the payment of all costs incurred for said suppression.

SECTION 2: EFFECTIVE DATE: This ordinance shall become effective fifteen days after its adoption and publication as required by law.

PASSED, ADOPTED A SYNOPSIS ORDERED PUBLISHED this 14th day of April, 2009.

Commissioner VanDyke voting yea
Commissioner Hardy voting yea
Commissioner Shaffer voting yea

Richard VanDyke, Chairman
Box Elder County Commission

ATTEST:

LuAnn Adams, Recorder/Clerk
Box Elder County

COUNTY RECORDER-CLERK
STATE
SEAL
OF UTAH
BOX ELDER COUNTY