

# TITLE VII: TRAFFIC CODE

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## CHAPTER 70: GENERAL PROVISIONS

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### § 70.01 GENERAL DRIVING.

The driver of any vehicle shall keep the vehicle under his or her control while the same is in motion and shall drive the same in a prudent and careful manner and with due regard for the safety and convenience of all other vehicles and pedestrians using the street.

(Ord. 29, passed 8-7-1972) Penalty, see § 70.99

### § 70.02 TAMPERING WITH MOTOR VEHICLE.

No person shall tamper with the motor vehicle of another, nor shall he or she, without authority of the person in charge, climb upon or into any vehicle, nor sound the horn, manipulate any levers, brakes or machinery thereof, nor shall he or she set in any vehicle or motor in motion or drive the same, provided that the provisions of this section shall not apply to any police officer in discharge of his or her duties.

(Ord. 29, passed 8-7-1972) Penalty, see § 70.99

### § 70.03 MISCELLANEOUS REGULATIONS.

(A) *Private driveway.* No person shall stop or park a vehicle so as to block any private driveway.

(B) *Vehicles prohibited on closed streets.* No vehicle shall be driven upon any street which has been closed to traffic by the Street Commissioner, Police Department or Board of Trustees.

(C) *Use of streets for sale or storage of vehicles.* No person shall use the streets for the storage, display or sale of any vehicle.

(Ord. 29, passed 8-7-1972) Penalty, see § 70.99

### § 70.04 STOP SIGNS.

Except when directed by a police officer, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a full stop at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

(Ord. 34, passed 3-2-1981) Penalty, see § 70.99

#### **§ 70.05 SPEED LIMIT IN TOWN.**

The speed limit of all streets within the town limits shall be 15 mph at all times, unless otherwise designated. The Town Board of Trustees does hereby adopt the fine and bond schedule currently used and adopted by the state.

(Ord. 9.019A, passed 8-20-2002; Ord. 9.03, passed 5-17-2005) Penalty, see § 70.99

#### **§ 70.06 DYNAMIC ENGINE BRAKES.**

(A) In order to maintain and preserve the public peace, health and welfare of its citizens, the use of dynamic engine braking shall be prohibited within the town limits.

(B) The use of dynamic engine braking shall be prohibited within the one-mile law enforcement jurisdiction of the town.

(C) Any individual violating this section shall be subject to a fine as currently used and adopted by the state for a petty offense.

(Ord. 9.04A, passed 8-15-2006)

#### **§ 70.07 RECKLESS/CARELESS DRIVING.**

(A) *Reckless driving.* Any person who drives any vehicle upon any street, alley or public place in the town carelessly and heedlessly in disregard of the rights and safety of others, or without due caution and circumspection, and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving.

(B) *Careless driving.* Any person who drives any motor vehicle upon any street, alley or public place in the town carelessly in disregard to the width, grade, curve, corners, signals, markings, condition or customary usage of the streets and alleys, or whose temporary inadvertence to the operation of the vehicle causes or is likely to cause damage to any person or property shall be guilty of careless driving.

(C) *Exhibition driving.* Any person who drives a motor vehicle within the limits of the town in a manner that creates or causes unnecessary engine noise, or tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race; or that causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

(Ord. 22, passed 4-5-1971; Ord. 23, passed 6-5-1972) Penalty, see § 70.99

#### **§ 70.08 STATE LAW ENFORCEABLE.**

All South Dakota traffic laws are enforceable in the town unless specifically stated otherwise by town ordinance.

#### **§ 70.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) Any person upon conviction of the public offense of reckless driving or careless driving in §70.07(A) or (B) shall be fined not more than \$100, or 30 days in jail, or by both fine and imprisonment.

(2) Upon conviction of violation of §70.07(C), the person shall be punished by a fine of not less than \$5 or more than \$100.

(Ord. 22, passed 4-5-1971; Ord. 23, passed 6-5-1972; Ord. 34, passed 3-2-1981)

## **CHAPTER 71: RECREATION VEHICLES**

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### Section

71.01 Definitions

71.02 Unlawful areas for operation

71.03 Requirements for operation

71.04 Equipment requirements

71.05 Unlawful to operate in manner detrimental to animals

### § 71.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**MOPED.** A motor-driven cycle equipped with two or three wheels with a combustion engine, piston or rotor displacement with no more than 50 cubic centimeters regardless of chambers in the power source, not requiring clutching or shifting by the operator after the drive system.

**MOTOR SCOOTER.** A self-propelled vehicle with an electric engine designed for travel on roadways or sidewalks.

**OPERATOR.** Every person who operates or is in actual physical control of a moped, motor scooter, three wheel or all terrain vehicle or lawn mower.

**PERSON.** Includes an individual, partnership, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not.

**RIDING LAWN MOWER.** A self-propelled vehicle designed for the mowing of grasses and weeds steered by wheels.

**ROADWAY.** The portion of a highway or town street improved, designed or ordinarily used for vehicular traffic.

**THREE WHEEL OR ALL TERRAIN VEHICLE.** A self-propelled vehicle designed for travel on snow, ice or natural terrain steered by wheels.

(Ord. 9.05, passed 6-6-2006)

### § 71.02 UNLAWFUL AREAS FOR OPERATION.

(A) It shall be unlawful to operate any moped, motor scooter, three wheel or all terrain vehicle on the streets or alleys or other public ways if it is not duly licensed by the state.

(B) It shall be unlawful for the licensed vehicles to operate as follows:

(1) On the portion of any right-of-way or any highway, street road, trail or alley used for motor vehicle travel. Travel and operation of the moped, motor scooter, three wheel or all terrain vehicle, hereunder shall, in any case, be limited to from the owner's residence to the town limits, and this shall be on the most direct route permissible when operated by a person with a state issued motor vehicle driver's license. Travel and operation of riding lawn mowers, hereunder shall, in any case, be limited to from one property to another property when the intention is to mow the property, and this shall be on the most direct route permissible when operated by a person with a state issued motor vehicle driver's license;

(2) On a public sidewalk provided for pedestrian travel;

(3) On boulevards within any public right-of-way except for the purpose of mowing;

(4) On private property of another without specific permission of the owner or person in control of the property, and this permission shall be in writing and in the possession of the person who is operating a moped, motor scooter, three wheel or all terrain vehicle;

(5) On any other public place except for the purpose of mowing;

(6) Two or more mopeds, motor scooters, three wheel or all terrain vehicles, traveling in the same direction shall be operated one behind the other with an interval of at least 15 feet between and, in no case, shall three wheel or all terrain vehicle ever be operated side by side;

(7) No moped, motor scooter, three wheel or all terrain vehicle, or riding mower shall be parked on any street or public right-of-way at any time; and/or

(8) Operation of mopeds, motor scooters, three wheel or all terrain vehicles, or riding mowers for special occasions, not in accordance with this chapter, shall be under the jurisdiction and control of the town law enforcement.

(Ord. 9.05, passed 6-6-2006) Penalty, see § 10.99

### § 71.03 REQUIREMENTS FOR OPERATION.

(A) No person under 12 years of age shall operate on streets or roadway surface of highways, or designated town property, and no person under 16 years of age shall operate on any roadway within the boundaries of the town, as the operator of moped, motor scooter, three wheel or all terrain vehicle, riding mower, unless accompanied by parent or a guardian or by an individual 18 years of age or older.

(B) No person under 18 years of age may operate or ride upon a moped, motor scooter, three-wheel or all terrain vehicle within the boundaries of the town, unless the person wears a protective helmet of a type meeting Department of Federal Transportation *Motor Vehicle Safety Standard* 218 as in effect on January 1, 1984. No person may operate a moped, motor scooter, three wheel or all terrain vehicle with any person under the age of 18 as a passenger if the passenger is not wearing

a protective helmet.

(C) No person may operate a moped, motor scooter, three wheel or all terrain vehicle unless he or she is wearing an eye protective device or unless the moped, motor scooter, three wheel or all terrain vehicle is equipped with a windscreen of sufficient height and design so as to provide adequate eye protection to the operator when seated on the vehicle in the normal operating position; however, no person may operate a moped, motor scooter, three wheel or all terrain vehicle during the period of time when headlights must be lighted while wearing an eye protective device that is tinted or shaded to reduce the light transmittance of the device to a level below 35%.

(D) It is unlawful for the owner of a moped, motor scooter, three wheel or all terrain vehicle, riding mower or tractor to permit the moped, motor scooter, three wheel or all terrain vehicle, or riding mower to be operated contrary to the provisions of this chapter.

(E) It is unlawful for any person to operate a moped, motor scooter, three wheel or all terrain vehicle, riding mower within the limits of the town:

(1) At any place, while under the influence of alcohol or drugs as defined in SDCL § 32-23-7, which is hereby incorporated herein by reference;

(2) At a rate of speed greater than reasonable or proper under all surrounding circumstances, and when operated on public roadways, in no case greater than posted speed limits;

(3) At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or likely to endanger or cause injury or damage to any person or property; or

(4) On any public or private school, cemeteries, public or private golf courses or town parks.

(Ord. 9.05, passed 6-6-2006) Penalty, see § 10.99

#### **§ 71.04 EQUIPMENT REQUIREMENTS.**

(A) It is unlawful for any person to operate a moped or motor scooter on any roadway within the limits of the town, unless it meets federal highway safety standards under 49 C.F.R. § 567.4 and equipped with the following. The moped or motor scooter must have a manufacturing label written in the English language, lettered block in capitals and numerical not less than 30-seconds of an inch high that states: "This vehicle conforms to all applicable federal motor vehicles safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal".

(B) It is unlawful for any person to operate a three wheel or all terrain vehicle any place within the limits of the town, unless it is equipped with the following:

(1) Standard mufflers which are properly attached and which reduce the noise of the operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a three wheel or all terrain vehicle motor; and

(2) Brakes adequate to control the movement of and to stop and hold the three wheel or all terrain vehicle under any condition of operation.

(Ord. 9.05, passed 6-6-2006) Penalty, see § 10.99

#### **§ 71.05 UNLAWFUL TO OPERATE IN MANNER DETRIMENTAL TO ANIMALS.**

It is unlawful to intentionally drive, chase, run over or kill any animal with a moped, motor scooter, three wheel or all terrain vehicle or lawn mower.

(Ord. 9.05, passed 6-6-2006) Penalty, see § 10.99

#### **§ 71.06 ENFORCEMENT.**

Any person in violation of any provision of this chapter is committing a Class 2 misdemeanor and is punishable by law.

(Ord. 9.05, passed 6-6-2006)

## **CHAPTER 72: TRUCK REGULATIONS**

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### Section

72.01 Purpose

72.02 Jurisdiction

- 72.03 Definitions
- 72.04 Truck routes
- 72.05 Street use permit
- 72.06 Truck parking

72.99 Penalty

#### **§ 72.01 PURPOSE.**

The Town Board of Trustees has deemed these regulations and controls to be reasonable and reasonably related to the health, safety and welfare of the residents of the town and to protect town streets from unnecessary damage.

(Ord. 9.07, passed 4-6-2010)

#### **§ 72.02 JURISDICTION.**

This chapter shall govern all territory within the statutory jurisdiction of the town.

(Ord. 9.07, passed 4-6-2010)

#### **§ 72.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number 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.

**BOARD OF TRUSTEES.** Hermosa Town Board members, elected by the citizens of Hermosa, Custer County, South Dakota.

**MOTOR VEHICLE.** A vehicle, as herein defined, which is self-propelled.

**OWNER.** A person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this chapter.

**PARKED/PARKING.** A stopped vehicle, whether occupied or not, otherwise than temporarily stopped for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

**SEMI-TRAILER.** Any commercially-licensed vehicle of the trailer type equipped with a kingpin assembly, designed and used in conjunction with a fifth wheel connecting device on a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

**TOWN.** The Town of Hermosa, Custer County, South Dakota.

**TOWN BOARD.** The Board of Trustees of the Town of Hermosa.

**TRAILER.** A commercially licensed vehicle without motive power designed for carrying property or passengers on its own structure and, for the purposes of this chapter, for being drawn by a truck and more than 28 feet in length.

**TRUCK.** Includes a truck tractor and trailer(s) and/or semi-trailer(s) with a gross vehicle weight of more than 26,000 pounds.

**TRUCK TRACTOR.** A motor vehicle designed and used primarily for drawing semi-trailers or similar vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

**VEHICLE.** A device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals.

(Ord. 9.07, passed 4-6-2010)

#### **§ 72.04 TRUCK ROUTES.**

(A) *Designation of truck routes.*

(1) The Board of Trustees shall designate which streets, or portions thereof, within and within one mile of the municipal limits of the town shall be through truck routes, local delivery truck routes, no truck routes or construction truck routes.

(2) All designated truck routes shall be identified by signs or markings erected and maintained under the direction of the Board of Trustees.

(B) *Use of truck routes.*

(1) All trucks within the town's jurisdiction shall be operated only over and along designated truck routes, unless so exempted in divisions (B)(4) through (6) below.

(2) All trucks using designated truck routes shall comply with state and county regulations concerning weight per axle, width, height and length.

(3) The Board of Trustees may designate weight limits for town streets, bridges and truck routes. Weight limits shall be identified by signs or markings erected and maintained under the direction of the Board of Trustees.

(4) A truck may deviate from an established truck route upon any officially established detour.

(5) A truck may deviate from an established truck route when so directed by an authorized municipal employee.

(6) A truck may deviate from an established truck route when so authorized by an approved street use permit.

(Ord. 9.07, passed 4-6-2010) Penalty, see § 72.99

### **§ 72.05 STREET USE PERMIT.**

(A) *Issuance of permits.* The Board of Trustees is hereby granted the authority to issue street use permits for trucks to operate over routes within municipal limits not established as truck routes or to otherwise deviate from the provisions of this chapter. The Board of Trustees shall write regulations to govern the issuance and operation of street use permits.

(B) *Street use permit fees.*

(1) The Town Board shall establish by the fee for street use permits, to be included in the town fee schedule list, on file in the town office.

(2) In addition to the street use permit fee, the applicant shall deposit a refundable cash surety, in an amount to be determined by the Board of Trustees, with the Town Finance Department.

(a) The Board of Trustees shall assess the street(s) to be impacted by the proposed street use permit before the permit is issued and again at the expiration of the permit to determine the extent of damage caused to the street(s) by the applicant's activity.

(b) The applicant may request that the amount of the refundable surety be applied to the assessed amount of the damage.

(c) Any damage that may exceed the amount of deposited surety shall be the financial responsibility of the applicant. The Town Board shall approve any surety refund, or portion thereof.

(d) The applicant may appeal the Board of Trustee's assessment of damage to the Town Board.

(Ord. 9.07, passed 4-6-2010) Penalty, see § 72.99

### **§ 72.06 TRUCK PARKING.**

No truck, tractor, trailer or other motorized cargo vehicle shall be parked in a public right-of-way within municipal limits except where the parking is temporarily required for the loading or unloading of cargo or freight and delivery of the same. The parking shall be limited to the period of time, usually no more than 12 hours, reasonably required to accomplish the purpose thereof.

(Ord. 9.07, passed 4-6-2010) Penalty, see § 72.99

### **§ 72.99 PENALTY.**

(A) A violation of any provision of this chapter or any amendment thereto, or failure to perform any act required hereunder, is a Class 2 misdemeanor.

(B) 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 the damaged street.

(C) Any violation of this chapter is hereby declared to be a public nuisance per se.

(Ord. 9.07, passed 4-6-2010)

## **CHAPTER 73: TRAFFIC SCHEDULES**

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Schedule

**I. Speed limits**

**SCHEDULE I. SPEED LIMITS.**

(A) It shall be unlawful for any person or persons, except law enforcement officers, ambulances and fire equipment drivers to drive or operate any automobile, truck, motorcycle or other vehicle at a speed exceeding 25 mph on South Dakota State Highway #79 through the corporate limits of the town within a zone marked by highway speed signs.

(B) Upon conviction of a violation of division (A) above, the person shall be punished by a fine in an amount set by the Board of Trustees, as per the current fee schedule, or by imprisonment for a period not exceeding 30 days or by both a fine and imprisonment.

(Ord. 7, passed 6-6-1949; Ord. passed 8-5-1974)