

**General Provisions**

**TITLE VII: TRAFFIC CODE**

Chapter

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## General Provisions

### CHAPTER 70: GENERAL PROVISIONS

#### Section

- 70.01 Traffic offenses and fines
- 70.02 Arrest in traffic cases; procedures
- 70.03 Truck regulations

70.99 Penalty

**Cross-reference:**

*Parking, see Chapter 74*

#### 70.01 TRAFFIC OFFENSES AND FINES.

New rules and regulations governing traffic shall be as follows:

<b>Offenses</b>	<b>Minimum Fine or Bail</b>
Exceeding maximum	\$2 per mile
Driving below minimum	\$2 per mile
Failure to have a valid operator's license in immediate possession	\$5
Littering	\$35
All other traffic laws which are misdemeanors for which the maximum penalty does not exceed a \$100 fine and/or 30 days in jail	\$25

(Res. 76-3, passed 3-15-1976)

**Cross-reference:**

*Additional fines, see Chapter 34, Appendix A*

#### 70.02 ARREST IN TRAFFIC CASES; PROCEDURES.

(A) *Manner of arrest.* Except in cases of driving while intoxicated or under the influence of intoxicating liquor or any stupefying or exhilarating drug, and except in the more serious and

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aggravated cases of speeding or careless and reckless driving and except when reasonably necessary to secure appearance, a person charged with violation of a traffic ordinance of the city by a police officer need not be arrested in the regular manner, but may first be given an opportunity after notice to appear voluntarily to answer for the traffic violation.

### (B) *Notice to appear.*

(1) A person charged with violation of a traffic ordinance by notice shall be given a notice to appear before the Justice Court at the time or within the time stated in such notice, which shall be within 72 hours from the time of the offense, and that in event of failure to do so, a warrant will be issued for his or her arrest. The notice shall state the name, description and address of the offender, if known, the nature and date of the offense and a description of the vehicle involved in the violation by trade, name and license number. This notice shall be signed by the police officer executing it.

(2) The notice shall be made triplicate; and one copy to be given to the owner or driver charged with the offense or to be left in or upon the automobile or vehicle involved in the violation. One copy is to be filed with the city police and one copy to be filed with the Justice Court.

(3) If the person charged with the offense is available, he or she shall be given an opportunity to sign an agreement to appear to answer the charge at the time and place specified in the notice, and if he or she shall refuse to sign an agreement, then he or she shall be placed under arrest for the offense in the manner otherwise provided by law.

### (C) *Appearance and deposit for fine.*

(1) A person who has received a notice of traffic violation through the city police shall, at or within the time specified in the notice, appear before the Justice Court to answer to the charge set forth therein according to the procedure of that Court.

(2) In cases of non-moving violations, and cases of failure to stop at a stop street, sign or signal which are not serious, the person charged shall appear at Justice Court and upon making the deposit for the fine as authorized by the Court and a statement authorizing the Justice of the Peace to enter his or her written plea of guilty to the offense, he or she shall not be required to make a formal appearance in Justice Court.

(D) *Arrest on failure to appear.* Upon failure of a person to appear in response to a notice of traffic violation as herein provided, he or she shall be subject to arrest in the manner otherwise provided by law.

(E) *Dismissal by officer prohibited.* A traffic violation shall not be excused or dismissed by any police officer or other officer, provided that nothing herein shall limit the pardoning power vested in the Common Council or any powers vested in the Justice Court.  
(Ord. 4, passed 9-29-1964; Ord. 98, passed 8-9-1977)

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### 70.03 TRUCK REGULATIONS.

#### (A) *Purpose and jurisdiction.*

(1) *Purpose and repeal of ordinance.* The ordinance codified herein is regulating trucks within the jurisdiction of the city. The common Council of the city has deemed these regulations and controls to be reasonable and reasonably related to the health, safety, and welfare of the residents of the city and to protect city streets from unnecessary damage. Therefore, Ordinance No. 192 of the Box Elder Code of ordinances is hereby repealed in its entirety.

(2) *Jurisdiction.* This section shall govern all territory within the statutory jurisdiction of the city.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context 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.

**CITY.** The city of Box Elder, South Dakota.

**COUNCIL.** The Common Council of the city.

**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 of 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 or a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is the owner for the purpose of this section.

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

**PUBLIC WORKS DIRECTOR.** The person appointed by the Common Council to manage the city's Public Works Department.

**SEMI-TRAILER.** Any commercially-licensed vehicle of the trailer type equipped with a kingpin assembly, designed and use 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.

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

**TRUCK.** The word **TRUCK** shall mean and include 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 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.

(C) *Truck routes.*

(1) *Designation of truck routes.*

(a) The Public Works Director shall designate which streets, or portions thereof, within and within one mile of the municipal limits of the city shall be through truck routes, local delivery truck routes, no truck routes or construction truck routes.

(b) All designated truck routes shall be identified by signs or markings erected and maintained under the direction of the Public Works Director.

(2) *Use of truck routes.*

(a) All trucks within the city=s jurisdiction shall be operated only over and along designated truck routes, unless so exempted in division (C)(3) below.

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

(c) The Public Works Director may designate weight limits for city streets, bridges, and truck routes. Weight limits shall be identified by signs or markings herein erected and maintained under the direction of the Public Works Director.

(3) *Exceptions to use of truck routes.*

(a) The provisions of this section shall not apply to emergency vehicles (such as police vehicles, fire trucks, ambulances, or hazardous materials response vehicles), health department vehicles, public utility vehicles (when actually engaged in the performance of public utility duties), tow trucks engaged in the process of towing a disabled or damaged motor vehicle or from public or private property, or to any vehicle owned by the United States of America, the State of South Dakota, Meade or Pennington Counties, or the city.

(b) A truck may deviate from an established truck route for the purpose of local business or delivery. The deviation from the nearest truck route shall be made by the shortest route as is reasonably possible to accomplish the local business or delivery.

(c) A truck tractor without an attached trailer may deviate from an established truck route.

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

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

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

(4) *Driver and owner responsibility.* The owner and/or driver of any truck being operated with the owner=s consent are liable for a violation of this section.

(D) *Street use permit.*

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

(2) *Street use permit fees.*

(a) The Council shall establish by resolution the fees for street use permits.

(b) In addition to the street use permit fee, the applicant shall deposit a refundable cash surety, in an amount to be determined by the Public Works Director, with the City Finance Department. The Public Works Director 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. The applicant may request that the amount of the refundable surety be applied to the assessed amount of damage. Any damage that may exceed the amount of deposited surety shall be the financial responsibility of the applicant. The Council shall approve any surety refund, or portion thereof. The applicant may appeal the Public Works Director's assessment of damage to the Council.

(E) *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. 486, passed 10-21-2009) Penalty, see ' 70.99

**' 70.99 PENALTY.**

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

(B) *Truck regulations.* A violation of any provision of ' 70.03 or any amendment thereto, or failure to perform any act required hereunder, is a Class 2 misdemeanor. 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. Any violation of ' 70.03 is hereby declared to be a nuisance per se.

(C) *Streets where parking is prohibited.* A violation of Chapter 76 Schedule I shall constitute parking in a no parking zone according to the ordinances of the city along with the payment of any towing charges for any vehicle the Police Department determines needs to be removed in violation of Chapter 76, Schedule I and the ordinances of the city.

(Res. 06-16, passed 7-18-2006; Ord. 486, passed 10-21-2009)

## **TRAFFIC REGULATIONS**

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## **GENERAL PROVISIONS**

### **71.001 DEFINITIONS.**

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

**COURT.** Magistrate Division of the Circuit Court of the Seventh Judicial Circuit, South Dakota.

**CROSSWALK.** That portion of roadway ordinarily included within the prolongation of curb and property lines at intersections, whether or not marked, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface.

**CURB.** The extreme edge or lateral boundary of a roadway, whether marked by curbing or not so marked.

**INTERSECTION.** The area embraced within the prolongation of the lateral curb lines, or if none, then of the lateral boundary lines of two or more highways which join one another at an angle, whether or not one highway crosses the other, but the area, in the case of the point where an alley and a street meet shall not be deemed as an **INTERSECTION**.

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

**OPERATOR.** Any person who is in actual physical control of a vehicle.

**PEDESTRIAN.** Any person afoot.

**PRIVATE ROAD** or **DRIVEWAY.** Every road or driveway not open to the use of the public for vehicular travel.

**RIGHT-OF-WAY.** The privilege of the immediate use of the highway.

**ROADWAY.** Portion of a street between the regular established curb lines or that part devoted to vehicular traffic.

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**SIDEWALK.** That portion of a street between the curb lines and adjacent property lines set aside for the use of pedestrians.

**STREET.** That part of the street set apart for the use of vehicles or motor vehicles and including alleys, avenues and public highways.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks; provided, that for the purposes of this chapter, a bicycle or a ridden animal shall be deemed a **VEHICLE**.  
(Ord. 116, passed 11-12-1980)

### ' 71.002 PASSING SCHOOL BUS.

The driver of a motor vehicle, upon meeting or overtaking from either direction of a school bus which has stopped to load or unload school children, shall stop when the school bus lights are flashing and shall not proceed until the bus lights stop flashing.  
(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### ' 71.003 UNATTENDED VEHICLES.

(A) *Vehicles unattended.* It shall be unlawful to leave a vehicle unattended or parked on a roadway right-of-way for a period in excess of 24 hours. It shall be unlawful to leave any unattended vehicle in a position for any period of time where it is obstructing any traveled portion of a street, roadway, roadway right-of-way or emergency parking area adjacent thereto in such a manner that it creates a traffic hazard. Where a vehicle is obstructing the traveled portion of any street, roadway, roadway right-of-way or an emergency parking area adjacent thereto, the Chief of Police is authorized to immediately have the vehicle towed by an authorized towing company. The Chief of Police is authorized to tow or have towed all vehicles in violation of this chapter, and the owner shall be entitled to reclaim the same upon paying all towing and storage charges.

(B) *Property found in streets and other public places; prohibited.* No person shall abandon, leave or place in any street, alley or public place of the city, any property of any kind; and no person shall permit any property of any kind so abandoned, left or placed, to be or remain for more than 24 hours in any street, alley or public place of the city, adjacent to or in the vicinity of his or her property or residence, without reporting same; and any property heretofore and hereafter so abandoned, left or placed in any street, alley or public place, and any property heretofore or hereafter so abandoned, left or placed by any person on any private property of which report or complaint may have reached the offices of the city, officer of the city or member of the Board of Trustees of the city, is declared to be a public nuisance and any obstruction and a menace to the public welfare, comfort, safety and health.

(C) *Removal and abatement.* It is hereby made the duty of the Chief of Police or any of his or her deputies to report to the Chief of Police any property so abandoned, left or placed,

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and the Chief of Police shall look after the removal of the obstruction and abatement of the nuisance as soon as possible after receiving any report.

(D) *Expense made lien.* It shall be the duty of the Chief of Police to take possession of any article of property so abandoned, left or placed on any public or private property, and if the same is believed to have any value, to keep it and make an attempt to find the owner thereof, and to retain any article heretofore so taken up. It shall be the duty of the Chief of Police to maintain a place for the keeping of any article until the same shall be claimed or otherwise disposed of and the city shall have a lien thereon for the reasonable expenses incurred and the value, or cost of the time and effort necessary in taking, removing and storing the article, and for the value of the storage and keeping thereof, and may retain possession until any and all liens are discharged.

(E) *Sale and disposition.* If any article of property has been or is kept for 90 days or more without being claimed the same may be disposed of by the Chief of Police; if of no value, or slight value, it may be destroyed; if of slight value but of use to the city, it may be turned over to the proper department and used until claimed and the charges hereby made a lien thereon, shall be regarded as a sufficient offset to the value, of any use; if of more than slight value, it may be sold by the department ten days after notice of the sale has been given by one publication in the legal newspaper for the city, and the city may be a bidder at the sale. If at any sale an amount is bid in excess of the charges or lien of the city, the excess shall be deposited to the credit of the general fund of the city.

(Ord. 33, passed 12-19-1967; Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### ' 71.004 TRAVELING ABREAST; PASSING AT INTERSECTIONS.

Except upon a highway or street designated for the traffic, vehicles shall not travel two or more abreast on any street or pass a moving vehicle at a street intersection except as directed by a police officer.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### ' 71.005 VEHICLES WITH LUGS; PROHIBITED.

No person shall operate or move any tractor engine, tractor or other vehicle exceeding 10,000 pounds in weight having wheels to the surface of which are attached mudlugs, ice spurs or log chains upon or across any street that is surfaced with paving or any other hard surfacing material, without first laying plank of at least two-inch thickness over the surface of the street in a manner so as to protect the street from contact with the vehicle.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### ' 71.006 RESTRICTIONS AS TO SPEED.

(A) No person shall drive a vehicle upon any street, alley or public place in the city at a speed greater than is reasonable and prudent under the conditions then existing, and it shall be prima facie unlawful and prima facie evidence that the speed is not reasonable and prudent

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under the conditions then existing for the driver of any vehicle or motor vehicle to drive the same upon any street, alley or public place in the city at a speed exceeding the following.

(B) The speed limit within the city shall be 25 mph unless otherwise posted, except that the speed limit shall be 15 mph in school zones during the time school is in session, during school recess or while children are going to or leaving school during the opening or closing of school.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### **' 71.007 RULES AND REGULATIONS BY POLICE CHIEF.**

The Chief of Police may from time to time make, publish and enforce incidental rules and regulations governing traffic as the need arises, providing that the rules and regulations are not inconsistent with the provisions of this Title and upon approval of the City Council.

(Ord. 116, passed 11-12-1980)

### **' 71.008 TAMPERING WITH MOTOR VEHICLES.**

No person shall tamper with the motor vehicle of another, provided that the provisions of this section shall not apply to any police officer discharged of his or her duties.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

## **TRAFFIC SIGNALS AND MARKINGS**

### **' 71.025 TRAFFIC CONTROL DEVICES; TRAFFIC ENGINEERING.**

The Chief of Police may maintain the traffic control devices, signs and markings, including automatic traffic control devices, as may be deemed necessary and approval by the City Council.

(Ord. 116, passed 11-12-1980)

### **' 71.026 DESIGNATE CROSSWALKS, ESTABLISH SAFETY ZONES AND MARK TRAFFIC LANES.**

(A) The Chief of Police may designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks where, in his or her opinion, there is particular danger to pedestrians crossing the roadway, and at other places it may deem necessary.

(B) The Chief of Police may establish safety zones of such kind and character at places he or she may deem necessary for the protection of pedestrians.

(Ord. 116, passed 11-12-1980)

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### ‘ 71.027 OBEDIENCE TO TRAFFIC SIGNALS AND MARKINGS.

It is unlawful for an operator of any vehicle to intentionally avoid any traffic signal or device by driving off the highway or street and driving across private property in order to avoid the traffic signal.

(Ord. 116, passed 11-12-1980; Ord. 395, passed - -) Penalty, see ‘ 71.999

### ‘ 71.028 BRAKES AND SIGNALING DEVICES.

Every motor vehicle shall be provided with a foot-pedal brake in good working order and sufficient to control the motor vehicles at all times when same is in use and shall have an adequate bell, horn or other device for signaling.

(Ord. 116, passed 11-12-1980)

### ‘ 71.029 LIGHTS.

A motor vehicle in motion, during the period from half an hour after sunset to half an hour before sunrise, shall display at least two lighted lamps on the front and on the rear of the motor vehicle, such lamps to conform to the state law; provided that a motorcycle, motor bicycle or bicycle shall be required to display but one lighted lamp in front and one in the rear.

(Ord. 116, passed 11-12-1980)

## ***RIGHT-OF-WAY***

### ‘ 71.045 PEDESTRIANS RIGHT-OF-WAY.

The operator of any vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at the end of a block or entrance to an alley, except at intersections where the movement of traffic is being regulated by police officers or traffic control signals. Whenever any vehicle has stopped at a crosswalk or intersection to permit a pedestrian to cross a roadway, the operator of any vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(Ord. 116, passed 11-12-1980)

### ‘ 71.046 RIGHT-OF-WAY; EXCEPTIONS.

(A) *Right-of-way.* When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right, except as otherwise provided herein. The driver of any vehicle traveling at an unlawful speed shall forfeit any right-of-way he or she might otherwise have hereunder. The driver of a vehicle approaching but not having entered the intersection shall yield the right-of-way to a vehicle within the intersection and turning to the left across the line of travel of the first mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required by law.

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### (B) *Exceptions to right-of-way rule.*

(1) The driver of a vehicle entering a public highway from a private road or drive shall yield the right-of-way to all vehicles approaching on the public highway.

(2) The driver of a vehicle upon a highway shall yield the right-of-way to police vehicles or Fire Department vehicles when the vehicles are operated upon official business, and ambulances, when drivers thereof sound audible signal by bell, siren or exhaust whistle. The provisions shall not operate to relieve the driver of a police vehicle, Fire Department vehicle or ambulance from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any vehicle from the consequence of an arbitrary exercise of the right-of-way.

(Ord. 116, passed 11-12-1980)

### ‘ **71.047 RIGHT-OF-WAY.**

The driver of a vehicle approaching a  $\Delta$ Yield Right-of-Way $\ominus$  sign shall reduce speed or stop if necessary in order to yield the right-of-way to all traffic in the intersecting street, which is so close as to constitute an immediate hazard. A collision or other interference with traffic on the intersecting street shall be prima facie evidence that the operator of the vehicle had not obeyed the right-of-way sign and yielded the right-of-way as provided by this section.

(Ord. 116, passed 11-12-1980)

## **EMERGENCY PERSONNEL AND VEHICLES**

### ‘ **71.065 OBEDIENCE TO POLICE.**

No person shall refuse or fail to comply with any lawful order, signal or direction of a police officer.

(Ord. 116, passed 11-12-1980) Penalty, see ‘ 71.999

### ‘ **71.066 AUTHORIZED EMERGENCY VEHICLES; EXEMPTIONS.**

The provisions of this Title regulating the speed, movement, parking and standing of vehicles shall not apply to authorized emergency vehicles while the operator of the vehicle is operating the same, in an emergency in the necessary performance of public duties. This exemption shall not, however, exempt the driver of the vehicle from the consequence of a reckless disregard of the safety of others.

(Ord. 116, passed 11-12-1980)

### ‘ **71.067 POLICE DIRECT TRAFFIC.**

The police officers shall direct all traffic in conformance with traffic laws and ordinances provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the Police or Fire Department may direct traffic as conditions may

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require.

(Ord. 116, passed 11-12-1980)

### **' 71.068 FOLLOWING FIRE APPARATUS; PROHIBITED.**

It shall be unlawful for the operator of any vehicle other than one operating an emergency vehicle to follow closer than 500 feet of any fire vehicle traveling in response to a fire alarm or to drive into or stop any vehicle within the block where the fire apparatus has stopped in answer to a fire alarm.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

### **' 71.069 CROSSING FIRE HOSE.**

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street or private driveway, without consent of the Fire Department official in charge.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

## ***RECKLESS DRIVING AND BEHAVIOR***

**' 71.085 CLINGING TO MOVING VEHICLES.**

No person traveling upon any bicycle, coaster, sled, skis, roller skates or any toy vehicle shall cling to, or attach himself or herself or his or her vehicle to any other vehicle upon any street.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

**' 71.086 RIDING ON OUTSIDE OF VEHICLES.**

No person shall ride upon the running board or fenders of any motor vehicle in motion.

(Ord. 116, passed 11-12-1980) Penalty, see ' 71.999

**' 71.087 RECKLESS AND CARELESS DRIVING.**

(A) Any person who drives any vehicle upon a street, avenue or alley carelessly and heedlessly in disregard of the rights or 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) Every person operating a vehicle upon the streets within the city shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic and use of the streets and all other attendant circumstances, so as not to endanger the life, limb or property of any person. Failure to drive in such manner shall constitute careless driving and violation of this section.

(C) (1) Any person who drives a vehicle within the limits of the city in such a manner that creates or causes unnecessary engine noise, tire squeal, skid or slide upon acceleration or stopping; or that simulates a temporary race; or that caused the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

(2) In addition to any other penalty provided for herein, the Magistrate Division of the Circuit Court of the Seventh Judicial Circuit may prohibit the defendant from operating a motor vehicle upon the public streets, alleys, avenues or highways within the limits of the city under restriction and in the manner as the Court may determine, for a period not exceeding one year.  
(Ord. 116, passed 11-12-1980)

**' 71.088 PASSING IN NO PASSING ZONE.**

The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when traveling in a no passing zone on highways or bridges when either marked by signs or lines on the roadway.

(Ord. 116, passed 11-12-1980)

‘ **71.089 OBJECTS ATTACHED TO MOTOR VEHICLES.**

It shall be unlawful for any person to operate a motor vehicle upon the streets and highways of the city, which has attached any object thereto in any manner, so as to endanger the person or property of another.

(Ord. 116, passed 11-12-1980) Penalty, see ‘ 71.999

‘ **71.999 PENALTY.**

(A) Any person, firm or corporation violating any provisions of this chapter shall be proceeded against as a Class 2 misdemeanor as provided for by statutes and laws of the State of South Dakota, except ‘ 71.087(A), shall upon conviction thereof, be punished by a fine not less than \$1 nor more than \$100 or by imprisonment in jail for not more than 30 days, or by both the fine and imprisonment.

(B) The actions by motorists described in ‘ 71.027, is deemed unlawful and the violation of ‘ 71.027 shall be classified as a Class 2 misdemeanor and a fine shall be \$68.

(Ord. 116, passed 11-12-1980; Ord. 395, passed - -)

**CHAPTER 72: RECREATIONAL VEHICLES**

Section

72.01 Use of off-road vehicles; regulations

72.99 Penalty

‘ **72.01 USE OF OFF-ROAD VEHICLES; REGULATIONS.**

(A) **OFF-ROAD VEHICLE** is any self-propelled, two or more wheeled vehicle designed primarily to be operated on land other than a highway and includes, but is not limited to, all terrain vehicles, dune buggies and any vehicle whose manufacturer=s statement of origin (MSO) or manufacturer=s certificate of origin (MCO) states that the vehicle is not for highway use. **OFF-ROAD VEHICLE** does not include a farm vehicle.

(B) The following shall constitute a public nuisance.

(1) No person shall operate an unlicensed off-road vehicle within or on any city street, except under road and weather conditions as declared by an authorized official to constitute emergency travel conditions authorizing use of an off-road vehicle or when the vehicle is necessary as an emergency vehicle to protect the health, safety and welfare of any individual.

(2) No person shall operate an off-road vehicle on private property of another without the permission to do so by the owner or occupant of the property.

(3) No person shall operate an off-road vehicle on public school grounds, park property, playgrounds, recreational areas and properties owned by the city.

(4) No person shall operate an off-road vehicle in any manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the use and enjoyment of a person=s property.

(5) No person shall operate an off-road vehicle in a careless, reckless or negligent manner so as to endanger the safety of any person or the property or any other person.

(6) Exception: Any person may operate an off-road vehicle when the vehicle is being used for agricultural uses or farming within the municipal boundaries of the city.

(Ord. 418, passed 10-19-2004) Penalty, see ' 72.99

**' 72.99 PENALTY.**

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

(B) *Use of off-road vehicles; regulations.* Any person found in violation of ' 72.01 will be classified as a Class 2 misdemeanor.

(Ord. 418, passed 10-19-2004)

**CHAPTER 73: RAILROADS**

**Section**

73.01 Period of time in which a railroad train can block a street or intersection

73.99 Penalty

**' 73.01 PERIOD OF TIME IN WHICH A RAILROAD TRAIN CAN BLOCK A STREET OR INTERSECTION.**

It shall be unlawful for any person to direct the operation, order the operation, permit the operation or operate any railroad train in such manner as to prevent the use of any street or roadway for purposes of vehicular or foot travel by blocking or otherwise preventing the movement of the traffic thereon for any period of time longer than ten consecutive minutes in duration; and if a street or roadway is so blocked for a period of ten minutes, it shall be left clear for a period of at least five minutes before it is again blocked; provided that the provisions of this section shall not apply to trains traveling continuously in the same direction through the intersection or crossing.

(Ord. 19, passed 5-10-1966) Penalty, see ' 73.99

‘ **73.99 PENALTY.**

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

(B) *Period of time in which a railroad train can block a street or intersection.* Any person, firm or corporation violating ‘ 73.01 shall, upon conviction thereof, be punished by a fine not less than \$1 nor more than \$100 or by imprisonment in city or county jail for not more than 30 days, or both by the fine and imprisonment.  
(Ord. 19, passed 5-10-1966)

**CHAPTER 74: PARKING REGULATIONS**

Section

- 74.01 Purpose and jurisdiction
- 74.02 Definitions
- 74.03 Authority to designate
- 74.04 Prohibitions
- 74.05 Citation or Removal of Vehicles in Violation

74.99 Penalty

**Cross-reference:**

*Parking schedules, see Chapter 76*

‘ **74.01 PURPOSE AND JURISDICTION.**

(A) *Purpose and repeal of ordinances.* The Common Council of the city has deemed these regulations and controls to be reasonable and reasonably related to the health, safety, and welfare of the visitors to and residents of Box Elder. To eliminate conflicts with these regulations, Ordinances No. 184, 190, and 280 of the Box Elder Municipal Code are hereby repealed in their entirety.

(B) *Jurisdiction.* The ordinance codified herein shall govern all territory within the municipal limits of the city.

(C) *Severability and Separability.* Should any Article, Section, Subsection, or Provision of this Ordinance be found to be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.  
(Ord. 482, passed 12-21-2010)

‘ **74.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context 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 *Aperson@* includes a firm, partnership, or corporation as well as an individual; the term *Ashall@* is always mandatory and not discretionary; and the word *Amay@* is permissive.

**ALLEY.** A service roadway providing only a secondary means of access to abutting property and not intended for general traffic circulation.

**CITY.** The City of Box Elder, South Dakota.

**COUNCIL.** The Common Council of the City.

**CROSSWALK.** That portion of a roadway ordinarily included within the prolongation of curb and property lines at intersections, whether or not marked, or any other portion of a roadway clearly indicated for pedestrian crossing by lines or other markings on the surface of the roadway or by signage adjacent to the roadway.

**CURB.** The extreme edge or lateral boundary of a roadway, often denoted by the presence of concrete curbing.

**DRIVEWAY.** A road that provides vehicular and/or pedestrian access to a parcel of land which adjoins a street and that is not open to the use of the public for travel.

**INTERSECTION.** The area defined by the projection of the curb lines of two intersecting streets, whether or not one of the streets crosses the other.

**PARK or PARKING.** The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

**ROADWAY.** That portion of a street that has been designed, improved, or ordinarily used for vehicular travel, usually between the curb lines.

**SHOULDER.** The extreme edge or lateral boundary of a roadway, usually lacking concrete curbing.

**SIDEWALK.** A paved area paralleling and usually separated from the traveled way, used as a pedestrian walkway.

**STAND or STANDING.** The halting of a vehicle, whether occupied or not, otherwise for the purpose of and while actually engaged in receiving or discharging passengers.

**STREET.** A public thoroughfare which affords the principal means of access to abutting property. **ALLEYS** and **PUBLIC HIGHWAYS** are considered streets under this definition.

**TEMPORARY PARKING.** Parking approved by the Public Works Director, or his designee, and allowed for up to eight (8) continuous hours in a twenty-four (24) hour period.

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**VEHICLE.** A device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks; including bicycles and ridden animals.  
(Ord. 482, passed 12-21-2010)

### 74.03 AUTHORITY TO DESIGNATE.

(A) *Designation and marking of crosswalks.* The Public Works Director, or his or her designee, may designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks where, in his or her opinion, there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.

(B) *Authority to prohibit.* The Public Works Director, or his or her designee, may prohibit stopping, standing, or parking of vehicles and may erect signs indicating no stopping, standing, or parking upon any street or part thereof, when the parking would interfere with traffic or create a hazardous situation. The application for such temporary parking shall be made to the Public Works Director at least forty-eight (48) hours before the event.

(C) *Authority to allow.* The Public Works Director, or his or her designee, may allow temporary parking of vehicles in areas where such parking would otherwise be prohibited and may erect signs indicating the limits and duration of such temporary parking when the temporary parking is needed to accommodate community, school, or special events.  
(Ord. 482, passed 12-21-2010)

### 74.04 PROHIBITIONS.

(A) *General prohibitions.* The operator of a vehicle shall not stop, stand, or park the vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal:

- (1) In an alley;
- (2) On a crosswalk;
- (3) Where a curb or street edge is painted yellow;
- (4) In front of, or impeding the use of, a driveway;
- (5) Within 15 feet of a fire hydrant;
- (6) In a fire lane;
- (7) Within 25 feet of a driveway entrance to a fire or police station;

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(8) Within an intersection;

(9) Within 25 feet of an intersection's curb/shoulder lines;

(10) Within ten feet of a mailbox between the hours of 8:00 am and 6:00 pm on Monday through Saturday;

(11) On city park grounds other than in a designated parking area;

(12) Within a designated no parking area on a public street, in a public right-of-way, or on public property;

(13) On any public street when snow has or is falling;

(14) On or within ten feet of railroad tracks;

(15) On a sidewalk, bike path, or trail; or

(16) In a location or manner that blocks traffic on a street.

(B) *Parking in a Handicapped Parking Space.* The operator of a vehicle shall not stop, stand, or park the vehicle in a handicapped parking space without the proper emblem or license plates attached to the vehicle.

(C) *Unattended vehicles.* (1) No vehicle may be left unattended or parked on a street, alley, public right-of-way, or public property for a period in excess of twenty-four (24) hours.

(2) No vehicle may be left unattended in a location for any period of time where it is obstructing any portion of a street in such a manner that it creates a traffic hazard. (3) No unattended boats, trailers, travel trailers, campers, recreational vehicles, snowmobiles, or all-terrain vehicles shall be left standing or parked on public streets.

(D) *Exemptions to Prohibitions.* The provisions of this Ordinance shall not apply to emergency vehicles (such as police vehicles, fire trucks, ambulances, or hazardous materials response vehicles), health department vehicles, public utility vehicles (when actually engaged in the performance of public utility duties), tow trucks engaged in the process of towing a disabled or damaged motor vehicle to or from public or private property, or to any vehicle owned by the United States of America, the State of South Dakota, Meade or Pennington Counties, or the City of Box Elder.

(E) *Damage to Parking Signs.* No person shall alter, cover, deface, injure, knock down, or remove any official parking control device, sign, signal, or marking or any part thereof.

### ‘ 74.05 CITATION OR REMOVAL OF VEHICLES IN VIOLATION

(A) *Notice to be attached to vehicles.* When any police officer or code enforcement

### **Parking Regulations**

officer finds a vehicle parked in violation of this Ordinance, that officer shall attach to the vehicle a citation stating that it has been parked in violation of this Ordinance and stating the cost of the violation as provided in this Ordinance or as established by order of the Magistrate Court.

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(B) *Removal of vehicles.* Any motor vehicle parked in violation of any provision of this chapter or in a manner or location that creates a hazard or obstruction to traffic may be removed at the direction of a police officer or code enforcement officer to any place designated by the Chief of Police for the storage of such vehicles. The owner of the vehicle, or his or her agent, shall pay the cost of the removal and storage of the vehicle plus all outstanding violation costs associated with the vehicle or the owner before reclaiming a vehicle removed under the provisions of this chapter.

(C) *Record of violations.* The Finance Officer, or his or her designee, shall keep a record of all violations of this chapter, indicating the location, date and hour, and the nature of the violation, the make, license number, and state issuing the license of the vehicle, and any other information necessary to provide a thorough understanding of the circumstances of the violation.

(Ord. 482, passed 12-21-2010) Penalty, see ' 74.99

### **' 74.99 PENALTY.**

(A) Parking contrary to and in violation of ' 74.04(A) above shall be deemed prohibited parking subject to a fine of \$25, which is payable to the City Finance Department. If the owner or operator of the violating vehicle fails to pay the fine within 72 hours of the issuance of the citation, the fine shall increase to its full amount of \$40. Failure of the owner or operator of the violating vehicle to pay the fine within two weeks of the issuance of the citation shall be deemed a Class II misdemeanor.

(B) Parking contrary to and in violation of ' 74.04(C) above shall be deemed prohibited parking subject to a fine of \$50, which is payable to the City Finance Department. If the owner or operator of the violating vehicle fails to pay the fine within 72 hours of the issuance of the citation, the fine shall increase to its full amount of \$80. Failure of the owner or operator of the violating vehicle to pay the fine within two weeks of the issuance of the citation shall be deemed a Class 2 misdemeanor.

(C) Parking contrary to and in violation of ' 74.04(B) shall be deemed prohibited parking subject to a fine of \$100, which is payable to the City Finance Department. If the owner or operator of the violating vehicle fails to pay the fine within 72 hours of the issuance of the citation, the fine shall increase to its full amount of \$200. Failure of the owner or operator of the violating vehicle to pay the fine within two weeks of the issuance of the citation shall be deemed a Class II misdemeanor.

(D) 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. 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, towing fees, and any restitution necessary to repair any damage resulting from the violation. Any violation of this Ordinance is hereby declared to be a public nuisance per se.

(Ord. 482, passed 12-21-2010)

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**CHAPTER 75: TRAFFIC SCHEDULES**

Schedule

- I. Arterial streets

**SCHEDULE I: ARTERIAL STREETS.**

The following streets shall be determined arterial pursuant to SDCL ' 31-33-5.

<i>From</i>	<i>To</i>
Box Elder Road beginning at West Gate Road east	Ellsworth Road
Ellsworth Road beginning at Highway 14-16 north	Patriot Gate
West Gate Road from US Highway 14-16 north	County Road 219

(Res. 00-01, passed 1-5-2000)

**CHAPTER 76: PARKING SCHEDULES**

Schedule

- I. Streets where parking is prohibited
- II. Parking fees

***Cross-reference:***

*Parking regulations, see Chapter 74*

**SCHEDULE I: STREETS WHERE PARKING IS PROHIBITED.**

(A) Until further notice, there shall be no parking along the street curbs of Stealth, Tanglewood, McDowell, Plover and Tuscany Streets in the city.

(B) In the event the need arises for a special event by a homeowner along those streets, temporary parking not to exceed four hours for visitors will be allowed on the north side of the above streets that run east and west, and on the west side of the above streets that run north and south.

(C) A No Parking@ signs shall be erected on those streets by the city.  
 (Res. 06-16, passed 7-18-2006) Penalty, see ' 70.99

## Recreational Vehicles

### SCHEDULE II: PARKING FEES.

(A) The City Police Department is hereby given authorization to issue parking tickets for the following violations

<i>Violation</i>	<i>Fee If Paid Within 72 Hours</i>	<i>Fee If Paid After 72 Hours</i>
Improper Parking (specify)	\$4	\$5
Parked in alley	\$5	\$6
Parked in handicapped zone	\$25	\$35
Parking during snow removal	\$10	\$25
Over-parked parking zone	\$2	\$7

(B) Every 24 hours constitutes a new violation.  
(Res. 86-11, passed 3-11-1986)

***Cross-reference:***

*Additional fines, see Chapter 34, Appendix A*

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