

**REVISED**

**MUNICIPAL ORDINANCES  
CITY OF ONIDA, SOUTH DAKOTA**

ORDINANCE # 00-00-1

Effective Date:

10/31/2023

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES  
OF THE CITY OF ONIDA, SOUTH DAKOTA

ORDINANCE # 00-00-1

AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE CITY OF ONIDA, SOUTH DAKOTA

BE IT ORDAINED BY THE CITY OF ONIDA, SOUTH DAKOTA:

Pursuant to SDCL 9-19-16, this Ordinance in Revision of the Municipal Ordinances of the City, revising regulations as set forth in the document title “Revised Municipal Ordinances”, is hereby read, approved, and adopted as follows:

First Reading	September 20 <sup>th</sup> , 2023
Second Reading and Adoption:	October 2 <sup>nd</sup> , 2023
Publication Date(s):	October 12 <sup>th</sup> , 2023
Effective Date:	October 31 <sup>st</sup> , 2023

\_\_\_\_\_  
LaJena R. Gruis, Mayor

\_\_\_\_\_  
Rondha Hiller, Finance Officer

MUNICIPAL SEAL:

## NOTICE OF ADOPTION

### AN ORDINANCE IN REVISION OF THE MUNICIPAL ORDINANCES OF THE CITY OF ONIDA, SOUTH DAKOTA

Notice is hereby given Ordinance # 00-00-1, an Ordinance in Revision of the Municipal Ordinances of the City of Onida, was duly adopted by the City Council on October 2<sup>nd</sup>, 2023 and shall become effective October 31<sup>st</sup>, 2023, according to South Dakota law.

The Ordinance revises the Municipal Ordinances of the City heretofore adopted, and repeals all ordinances or parts of ordinances in conflict therewith. The ordinance does not repeal special ordinances, appropriation ordinances, levying ordinances for the issuance of bonds, and other special ordinances of like character. Such ordinances not included in the revision and still having force and effect may be found in the Finance Office.

A copy of the Revised Municipal Ordinance is available for public inspection at the Onida City Hall during normal business hours. It is also available at [onidasd.org](http://onidasd.org).

Rondha Hiller, Finance Officer

Published October 12<sup>th</sup>, 2023 at a total approximate cost of \$

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## **Title I: General Provisions**

### **Chapter 1: Penalties**

#### **Section I.1.1 Misdemeanor Violations**

Except in cases where a different or additional penalty is imposed by this ordinance or by some existing provision of South Dakota State Law, every violation of any of the provision of this ordinance shall be punishable as a Class 2 Misdemeanor under South Dakota statutes, and shall be subject to up to a \$200 fine per incident and imprisonment as provided for Class 2 Misdemeanor violations.

#### **Section I.1.2 Noncompliance Fee**

- A. Any violation of Title XII.6.2 (vehicle parking/snow removal) or Title VII.4.3 (animal running at large) shall be punishable by a noncompliance fee as found in City Bond Schedule.
1. Within seven (7) days of the ticket being issued, the owner of the vehicle or animal at issue or other person responsible for the vehicle or animal at issue shall either pay the noncompliance fee at the City Finance Office or request in writing to the issuing law enforcement officer a request to reconsider issuance of the ticket stating any extraordinary circumstances.
  2. Should the noncompliance fee not be paid and no request for a review be made, the City shall send a “Notice of Payment Due” to the last known address of the owner/responsible party in the amount owed, plus a late fee in the amount of \$15.
  3. Unless the ticket is under review, if the noncompliance fee and late fee has not been paid within fourteen (14) days of the “Notice of Payment Due” being mailed to the vehicle/animal owner, a Summons to Appear in Magistrate and Complaint for Violation of Municipal Ordinance shall be served upon the vehicle or animal owner.
- B. Appeal/Review Process
1. The law enforcement officer who issued the citation shall have the authority to void a ticket issued for noncompliance of Title XII.6.2 or Chapter VII.4.3. hereof when presented with extraordinary circumstances that justify such action. Not knowing of the ordinance does not constitute good cause or extraordinary circumstances which may result in a rescission of the ticket.
  2. If, after review, the issuing law enforcement officer does not void the ticket within three (3) days of receiving the written appeal, the vehicle/animal owner/responsible person may request a judicial review of the ticket. Upon receipt of a request for a judicial review

the City Attorney shall have a Summons To Appear in Magistrate Court and Complaint for Violation of Municipal Ordinance served upon the person requesting judicial review and at the person's initial court appearance, the person may enter a plea of not guilty to the complaint and request a trial to the court be scheduled for the purpose of having the addressed.

## **Chapter 2: Conflicting Ordinances Repealed**

All ordinances and parts of ordinances in conflict with the provisions of this ordinance, or relating to the subject matter of this ordinance and not re-enacted as part of this ordinance, are hereby repealed; provided however, that nothing herein shall be construed as repealing any special ordinances, appropriate ordinances, levying ordinances for the issuance of bonds, or other special ordinances of like character, nor shall this ordinance repeal or modify the provision of any ordinance heretofore adopted by the City unless provisions of this ordinance in effect, either modify, repeal or amend such ordinances.

## **Chapter 3: Unconstitutionality**

Should any Section, Sub-section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason the remainder of this ordinance shall not be affected thereby.

## **Chapter 4: Publication and Effect**

This ordinance shall take effect upon its adoption and publication of the notice of such adoption as provided by SDCL 9-19-17.

## **Title II: Administration**

Definitions:

- a. Governing Body shall also mean Common Council, City Council and, or Council.
- b. Alderman shall also mean Alderperson, Council Person, Council Member.

## **Chapter 1: Governing Body**

### **Section II.1.1 Form of Government**

The City of Onida shall be governed by a Mayor and Common Council in an Aldermanic Form  
(SDCL 9-2-3 and SDCL 9-8-1).

### **Section II.1.2 Class of Municipality; Change of Classification**

- A. The City of Onida shall be considered a second-class municipality with a population between 500 and 5,000. (SDCL 9-2-1)
- B. The City of Onida may change its classification if the territory of the municipality has changed substantially since the last preceding census. The governing body by resolution may authorize and direct its finance officer to determine the population by filing in his or her office a certificate showing the whole number of persons who voted at the last

preceding annual municipal election, which number multiplied by three shall constitute the population for the purpose of classification until the next federal census shall have been completed.  
(SDCL 9-2-2)

## **Chapter 2: Meeting Times**

### **Section II.2.1 Meetings**

Unless otherwise determined and announced, regular meetings of the governing body shall be held in city hall on the first Monday of each month at 6:30 p.m.

### **Section II.2.2 Special Meetings**

Special meetings may be called at any time by the Mayor to consider such matters as may be mentioned in the call for the meeting  
(SDCL 9-8-8)

### **Section II.2.3 Notice of Regular and Special Meetings**

The city finance officer shall issue written notice with proposed agenda at least 24-hours prior to any meeting by posting a copy of the notice at visible to the public at city hall and provide in advance of each special meeting via person, mail or be telephone the information in the notice to members of the local news media who have requested notice. The notice and proposed agenda will also be posted on the city website at least 24-hours prior to the meeting.  
(SDCL 1-25.1.1)

## **Chapter 3: Mayor and City Council**

### **Section II.3.1 Mayor—Executive, Qualifications, Term, Powers/Duties:**

- A. Executive—The chief executive officer of the municipality shall be the mayor. (SDCL 9-8-1)
- B. Qualifications--Such person must be a citizen of the United States, a voter of and resident of the municipality. Nor can the individual owe money to the city. (SDCL9-14-2 and SDCL 9-8-1.1)
- C. Term--The mayor shall hold office for a term of two years. A person may hold office for more than one term. (SDCL 9-8-1)
- D. Powers/Duties
  1. The mayor shall preside at all meetings of the council but shall have no vote except in case of a tie.
  2. The Mayor shall perform such other duties as may be prescribed by the laws and ordinances, and take care that such laws and ordinances are faithfully executed.
  3. The Mayor shall annually and from time to time give the council information relative to the affairs of the municipality, and shall

recommend for their consideration such measures as he or she may deem expedient.

4. The Mayor shall have the power to sign or veto any ordinance or resolution passed by the council, and the power to veto any part or item of an ordinance or resolution appropriating money. Pursuant to SDCL § 9-19-10, the veto, with written objections must be filed with the finance officer within ten days after final passage. (SDCL 9-8-3)

### **Section II.3.2 Aldermen—Qualifications, Terms, Membership**

- A. Qualifications--The person must be a citizen of the United States, a voter of and resident of the ward for which such person is to represent. Neither can a person owe money to the municipality. (SDCL 9-14-2)
- B. Terms--An alderman shall hold office for a term of two years. A person may hold office for more than one term. (SDCL 9-8-4)

### **Section II.3.3 President of Council - Vice President**

- A. At the first regular meeting after the annual election in each year and after the qualification of the newly elected aldermen, the council shall elect from among its own members a president and vice president, who shall hold their respective offices for the municipal year.
- B. The president of the council in the absence of the mayor shall be the presiding officer of the council and during the absence of the mayor from the first or second-class municipality or his or her temporary disability shall be acting mayor and possess all the powers of the mayor.
- C. In the absence or disability of the mayor and president of the council the vice president shall perform the duties of the mayor and president of the council. (SDCL 9-8-7)

### **Section II.3.4 Vacancies**

- A. Mayor—If, for any cause, there is a vacancy in the office of the mayor, the vacancy shall be filled by appointment by a majority of the members-elect of the council, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual election or by special election as provided in SDCL 9-13-14.2. Until the vacancy is filled or during the time of temporary disability of the mayor, the powers and duties of mayor shall be executed by the president of the city council. (SDCL 9-8-2)
- B. Aldermen--If there is a vacancy for any cause by an alderman, the vacancy shall be filled by appointment by a majority of the members-elect of the council, as soon as practicable after the vacancy occurs, to serve until the office is filled by election for the unexpired term at the next annual election or by special election as provided in SDCL 9-13-14.2. The alderman appointed shall be a resident of the ward that he or she shall represent.



## Chapter 4: Rules of Governing Body/Meeting

### Section II.4.1 Quorum --Record of Meetings

- A. Quorum--A majority of the aldermen elected shall constitute a quorum to do business, but no act of the Common Council shall be effective unless agreed to by a majority of the members. (SDCL 9-8-18).
- B. Record of Meeting—The council shall sit with open doors, unless otherwise allowed by SDCL and shall keep a written record of its proceedings.

### Section II.4.2 Votes

- A. The yeas and nays shall be recorded by individual upon the passage of all ordinances and upon any proposal to create a liability or for the expenditure of money, and in all other cases at the request of any member. (SDCL 9-8-10)
- B. The concurrence of a majority of the council shall be necessary to for the passage of any ordinance, except it shall require a two-thirds vote of approval to sell any city property. (SDCL 9-8-10)
- C. Reconsideration--No vote of the council shall be reconsidered or rescinded at a special meeting unless at such meeting there is present as large a number of council members as were present when such vote was taken. (SDCL 9-8-11)
- D. Action Deferred—Any report of any committee of the council shall be deferred for final action to the next regular meeting of the council after the report is made, upon the request of any two aldermen present. (SDCL 9-8-9).
- E. Conflict of Interest--No municipal official may participate in discussions or vote on any issue in which the officials has conflict of interest and/or if the following circumstances apply: 1) The official has a direct monetary interest in the matter before the Governing Body; or 2) At least two-thirds of the Governor Body votes that an official has an identifiable conflict of interest that should prohibit such official from voting on a matter. If an official with a direct monetary interest participates in discussions or votes on a matter, the legal sole remedy shall be to invalidate the official's vote. (SDCL 6-1-17)

## Chapter 5: Officers and Employees

### Section II.5.1 Appointment of Officers/Supervisors/Liaisons

- A. On an annual basis and at the first regular meeting in May of each year, there shall be appointed by the Mayor, and approved by the council, , City Attorney, and other such officers as may be provided by ordinance. (SDCL 9-14-3)
- B. Supervision of Departments—The Mayor, with the approval of the Council, at the first meeting in May of each year, shall appoint a member

of the Council to act in a supervisory capacity in the various municipal departments of the water, wastewater, electric, pool, parks, street, and to serve as a liaison to the Fire Department, Sheriff's Department and other such boards as may be necessary. The council member, so appointed, shall have supervision over the department to which he or she is named as supervisor, and shall from time to time and as requested by the council, report as to the condition and matters in such department.

#### **Section II.5.2 Compensation**

- A. Compensation—The annual salary of the mayor, council members and appointed officers and employees shall be set by the resolution of the city council at a regular or special meeting.
- B. Rate of Pay and Overtime--The city, in reference to employees of the City of Onida shall comply with applicable State or Federal wage and hour laws.
- C. Employee Benefit and Personnel Issues--Employees benefits and other personnel type issues shall be those set forth in the city personnel policy manual.

#### **Section II.5.3 Bonds**

The City Finance Officer shall furnish bonds to be approved by the City Council in such sum as may be determined by resolution. The bond cost shall be payable by the city.  
(SDCL 9-14-6.1)

### **Title III: Boundaries, Wards and Voting Precincts**

#### **Chapter 1: City Boundaries**

The City of Onida shall include all territory embraced within the original town site of Onida together with all subsequent additions taken into the City since that time, less territory legally excluded there from if any. City limit maps are on file at city hall.

#### **Chapter 2: Wards**

##### **Section III.2.1 Boundaries**

The City shall be divided into three wards, which shall be combined and consolidated into one election precinct, and shall be designated respectively as Wards One, Two and Three. The wards shall be described with certain street or avenue designations or other landmarks that divide and border the wards. Any reference to street or avenue below shall mean an imaginary line running down the approximate middle of each street or avenue. The wards of the City of Onida are as set forth below and the map thereof. Any discrepancies shall be resolved by reference to the map rather than the physical descriptions set forth herein.

The First Ward shall include all of that part of the City north of Ash Avenue. It shall also include all that part of the city north of Dogwood Avenue located between Main Street and 9<sup>th</sup> Avenue. It shall also include that part of the City North of Birch Avenue and East of 10<sup>th</sup> Street.

The Second Ward shall include all of that part of the City located both North of Dogwood Avenue between 5<sup>th</sup> Street and Main Street. It shall also include all that part of the City south of Dogwood Avenue between 5<sup>th</sup> Street and 8<sup>th</sup> Street, and north of Ginseng Avenue between the CP/DME Railroad and 8<sup>th</sup> Street, and north and east of the CP/DME Railroad between 5<sup>th</sup> Street and Ginseng Avenue.

The Third Ward shall include all of that part of the City located south of Ash Avenue between US Highway 83 and 5<sup>th</sup> Street. It shall also include all that part of the City located south and west of the CP/DME Railroad. It shall also include all that part of the City located south of Ginseng Avenue. It shall also include all that part of the City located south of Dogwood Avenue located between 8<sup>th</sup> Street and 11<sup>th</sup> Street. It shall also include all that part of the City located South of Ash Avenue located between 9<sup>th</sup> Street and 10<sup>th</sup> Street. It shall also include all that part of the City located east of 9<sup>th</sup> Street located between Birch Avenue and Dogwood Avenue.

### **Section III.2.2 Representation/Terms**

Each ward shall be represented by an equal number of aldermen.

### **Section III.2.3 Precincts**

Each ward of the City of Onida shall constitute an election precinct for all general, primary, special, and municipal elections and the polling places for such consolidated precincts shall be as designated by the governing body by resolution from time to time.

## **Title IV: Public Safety—Police and Fire**

### **Chapter I: Police Department/Countywide Law Enforcement**

The City of Onida does not operate its own police department but provides services to its residents under a Sully Countywide Law Enforcement agreement with the Sully County Sheriff's Office and Sully County. The agreement is negotiated on a yearly basis.

### **Chapter II: Fire Regulations**

#### **Section IV.2.1 Fire and Ambulance**

The Onida Fire Department (OFD) is the main provider for fire and ambulance services to Onida residents. The (OFD) is a voluntary, independent organization to which the City of Onida may appropriate funds for the maintenance thereof from time to time at the city's discretion.

#### **Section IV.2.2 Adoption of National Fire Prevention Code**

The most recent version of the National Fire Prevention Code is hereby adopted by the City of Onida for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion.

**Section IV.2.3 Definition**

Whenever the word “municipality” is used in the code hereby adopted, it shall mean the City of Onida.

**Section IV.2.4 Modifications**

The Chief of the Fire Department shall have power to modify any of the provisions of the code hereby adopted upon application in writing by the owner or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the department and a signed copy shall be furnished by Applicant.

**Section IV.2.5 Appeals**

Whenever the Chief of the Fire Department shall disapprove an applicant or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the City Council within thirty (30) days from the date of the decision of the appeal.

**Section IV.2.6 Validity**

The City of Onida hereby declares that should any section, paragraph, sentence or word of this chapter or of the code hereby adopted be declared for any reason to be invalid, it is the intent of the City of Onida that it would have passed all other portions of this chapter independent of the elimination here from of any such portion as may be declared invalid.

**Section IV.2.7 General**

- A. Right-of-Way Regulation--All motor equipment and all personal vehicles of the OFD members shall have the right-of-way over all over traffic when responding to an alarm.
- B. Parking Regulations--No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty (20) feet of the entrance to any fire station or any place with fire apparatus is stored or within fifteen (15) feet of any fire hydrant or cistern.
- C. Driving Over Hoses Prohibited--Neither a motorized or a non-motorized vehicle shall be driven over unprotected hoses of the Onida City Fire Department when laid down on any street or alley to be used at any fire, alarm of fire, or while at practice, without the consent of the Fire Chief, or other such person as may be in command. (Reference: Ordinance 1.0312)
- D. Defacing/Destroy Property--No person may willfully hinder or interfere with any fire or ambulance personnel in the performance of their duty

at, going to, or returning from any fire or emergency call. Nor shall any person willfully cut, deface, damage, destroy or injure any communication services or equipment of either the public or private sector necessary for emergency services.

- E. Unlawful to Ride Emergency Equipment-Neither shall any individual attempt to ride upon trucks/vehicles of the OFD in going to or return from any fire or other emergency.

#### **Section IV.2.8 Penalty**

Any person violating any provision of Section IV.2.8, A through E may be convicted for each such offense and punished according to the general punishing provision of the City ordinance.

## **Title V: General Finance Regulations/Sale, Service and Use Taxes**

### **Chapter 1: Budget**

#### **Section V.1.1 Preparation of Budget**

The City of Onida shall prepare and adopt an annual appropriations ordinance in accordance with SDCL.

#### **Section V.1.3 Annual Reports by Boards**

Each of the boards appointed and acting for the city, shall make an annual report of its receipts, disbursements and activities to the city council as soon as practicable after the close of the city's fiscal year (December 31). Such report shall be filed with the Finance Officer.

### **Chapter 2: Purchases/New Construction/Spending Authority**

#### **Section V.2.1 Purchases/New Construction**

The City of Onida shall follow SDCL 5-18 bidding and purchase requirements as necessary for the purchase, lease or rental of materials, supplies, equipment, and real property. (SDCL 5-18)

#### **Section V.2.2 Contracts by Members of the Council**

No officer or member of the Common Council shall enter into any contract, make any purchases, or create any indebtedness against the city in excess of Five Hundred Dollars (\$2500) without first having gotten prior approval from the Common Council at a council meeting.

#### **Section V.2.3 Purchase of Materials and Supplies**

The City Finance Officer shall purchase all supplies and keep duplicates of orders on file. Any purchase involving more than Five Hundred Dollars (\$2500) shall not be made without prior approval of the Mayor or member of the Council assigned to the department. All purchase invoices must be approved and signed by the city department head and or council member assigned to the department and filed with the City Finance Officer.

### **Chapter 3: Claims/Payment**

- A. All claims against the city shall be in writing in an invoice format. Any forms required by SDCL shall be completed by the City Finance Officer.
- B. Prior to approval of payment by the council, claims shall bear the approval of the council member assigned to the department or person in charge of the department for which such services or supplies are furnished.
- C. Claims, approved and denied, must be recorded in the meeting minutes of the Common Council. (SDCL 9-23-1 and 9-23-2)

### **Chapter 4: Funds**

The Finance Officer shall keep full, true and just accounts of all financial affairs of the city and shall keep such accounts in such form and furnish information in such manner and time as is required by the SD Department of Legislative Audits.

### **Chapter 5: Sales, Service and Use Tax**

#### **Section V.5.1 Purpose**

The purpose of this chapter is to provide additional needed revenue for the municipality of Onida by imposing a municipal retail sales and use tax pursuant to the powers granted to the municipality by the state of South Dakota by SDCL 10-52 entitled Uniform Municipal Non-Ad Valorem Tax Law, and acts amendatory thereto.

#### **Section V.5.2 Effective Date and Enactment of Tax**

After the first day of January, 2006, there is imposed as a municipal retail occupational sales and service tax upon the privilege of engaging in business a tax measured by two percent on the gross receipts of all persons engaged in business with the jurisdiction of the municipality of Onida, Sully South Dakota, who are subject to the SD Retail Occupational Sales and Service Tax according to SDCL 10-45 and act amendatory thereto.

#### **Section V.5.3 Use Tax**

There is an excise tax imposed on the privilege of use, storage and consumption within the jurisdiction of the municipality of tangible personal property or services purchased from after the first of January, 2006 at the same rate as the municipal sales and service tax (2%) upon all transactions or use, storage and consumption which are subject to the South Dakota Use Tax Act, SDCL 10-46, and acts amendatory thereto.

#### **Section V.5.4 Collection**

Such law is levied according to authorized granted by SDCL 10-52 and acts amendatory thereto, and shall be collected by the South Dakota Department of Revenue and Regulations in accordance with the same rules and regulations applicable to the State Sales Tax and under such additional rules

and regulations as the Secretary of Revenue and Regulations of the State of South Dakota shall lawfully prescribe.

#### **Section V.5.5 Penalty**

Any person failing or refusing to make reports or payments prescribed by this chapter and the rules and regulations relating to the enforcement and collection of the tax levied in this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$200 or imprisoned in the county jail or both such fine and imprisonment. In addition, all such collection remedies authorized by SDCL 10-45, and acts amendatory thereto, and SDCL 10-46, and acts amendatory thereto are hereby authorized for the collection of these excise taxes by the Department of Revenue and Regulations.

### **Chapter 6: Municipal Property/Sale of Surplus Property**

The City of Onida may sell, trade, destroy, or otherwise dispose of any land, structures, equipment or other personal property which the council has, by appropriate motion, determined is no longer necessary, useful or suitable for the purpose for which it was acquired by the city. Disposition of said property shall follow SDCL 6-13-1, SDCL 43-41, and other SDCL as may be applicable.

## **Title VI: Public Health and Welfare-Public and Private Nuisances**

### **Chapter 1: Definitions**

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

- a. *"Abandoned property"* - includes, without being so restricted, deteriorated, wrecked, partially dismantled or inoperative motor vehicles.
- b. *"Building"* - Any structure designed or intended for the support, enclosure, shelter or protection of persons or property.
- c. *"Building official"* - That person designated by the City Council from time to time to serve as the City official authorized to assist in the enforcement of this Ordinance
- d. *"City"* - the City of Onida, Sully County, South Dakota.
- e. *"Common Council or City Council"* - City Council/Governing Body of the City of Onida, Sully County, South Dakota.
- f. *"Designated official"* - person designated by the City Council of the City from time to time to care for the removal of noxious and unhealthful vegetation.
- g. *"Garbage"* - all organic refuse from the preparation of food and decayed or spoiled animal or vegetable food from any source.
- h. *"Inoperable vehicle"* - Any vehicle which is not in operating condition due to damage, removal or inoperability of one or more tires, wheels, the engine or other essential parts required for the operation of the vehicle, or which

does not have lawfully affixed thereto a valid state license plate or which constitutes an immediate health, safety, and fire or traffic hazard.

- i. *"Litter"* - A disorderly accumulation of objects, especially carelessly discarded trash.
- j. *"Noxious and unhealthful vegetation"* - weeds as defined by the federal or state government as being noxious.
- k. *"Nuisance"* - consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either:
  - 1) Annoys, injures or endangers the comfort, repose, health or safety of others; or
  - 2) Offends decency; or
  - 3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal or basin or any public park, square, street, or highway; or
  - 4) In any way renders other persons insecure in life or in the use of property; or
  - 5) Whatever is dangerous to human health; whatever renders the ground, the water, the air, or food hazardous; or an injury to human health.
- l. *"Patio Fire Pit"* - called a chiminea, patio fire place, patio heater, fire pit brazier, etc.
- m. *"Premises"* - A lot or parcel of land, improved or unimproved, parking areas thereon, walkways and sidewalks.
- n. *"Public & Private Nuisance"* - A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal. Every other nuisance is private. (SDCL 21-10-3.)
- o. *"Refuse"* - Includes unwanted or discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish or a combination thereof.
- p. *"Rubbish"* - Includes non-decaying solid waste consisting of combustible and noncombustible waste materials from residential units, commercial, industrial, and institutional establishments, including yard waste and items commonly referred to as "trash."
- q. *"Sidewalk"* - A strip of property lying in front of and between the curb line and property line of the adjoining or abutting lot, piece, or parcel of land within the City.
- r. *"Solid Waste"* - Refuse, rubbish, garbage, trash and bulky refuse.
- s. *"Trash"* - Includes earth, soil, wood, tree leaves, dead leaves, small branches, clay, sand, bricks, plaster, Portland cement, chips, shavings, grass cuttings, sticks, rocks, old papers and magazines, paper or wood cartons, rags, sawdust, old clothing, and other combustible material of a like nature which are not included in the definition of garbage.

## Chapter 2: General Information

### Section VI.2.1 Violation of this Ordinance



It is a violation of this ordinance for any person to create, maintain or permit to be created, committed, or maintained a public nuisance as defined herein. Anyone found guilty of doing so is punishable as provided for in Title 1.

**Section VI.2.2 Acts Under Statutory Authority Not Deemed Nuisance**

Nothing which is done or maintained under the express authority of a state statute or city ordinance can be deemed a nuisance.

**Section VI.2.3 Damages for Past Injury Recoverable after Abatement/Correction**

The abatement or correction of a nuisance does not prejudice the right of any person to recover damages for its past existence.

**Section VI.2.4 Liability of Successive Owners for Continuing Nuisance**

Every successive owner of property who neglects to correct a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefore in the same manner as the one who first created it.

**Section VI.2.5. Public Nuisance not legalized by Lapse of Time**

No lapse of time can legalize a public nuisance, or cause the nuisance to be a public right.

**Section VI.2.6. Remedies against Public Nuisances Enumerated**

Remedies against any nuisances are 1) a civil action; or 2) abatement/correction using the procedures set forth in Chapter VI.4; and in cases of public nuisance only, the additional remedy of indictment, complaint or information as prescribed by statute and rules relating thereto.

**Section VI.2.7. Persons Entitled to Maintain Civil Action Against Nuisance, Injunction and Damages Recoverable**

The remedy by civil action against any public nuisance may be maintained by any public body or officer authorized by law or official duty, or by any private person if it is specifically injurious to that person. Such remedy may also be used by any person whose property is injuriously affected or whose personal enjoyment is lessened by any nuisance public or private. In all such actions the nuisance may be enjoined, or ordered abated, and damages recovered in addition.

**Section VI.2.8. Abatement of Nuisance, Notice Required before Abatement**

A public nuisance may be abated without civil action by any public body or officer authorized by law. Any private person may likewise abate a public nuisance which is especially injurious to that person or any private nuisance injurious to that person in any manner by removing, or if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace or doing unnecessary injury. Where a private nuisance results from a mere omission of the wrongdoers, and cannot be abated without entering upon someone's land, reasonable notice must be given to that person before entering to abate it.

**Section VI.2.9. Complaints**

In enforcing this Title, action may be taken by, and for, enforcement as follows:

- a. Receipt of a formal written complaint which is dated and signed and has been filed by any resident, property owner or occupant;
- b. At the request of the City Council, or
- c. Upon a validated investigation by local law enforcement.

**Chapter 3: Nuisances****Section VI.3.1. Types of Nuisances**

Nuisances may include but are not limited to:

- A. Garbage & Refuse. Depositing, maintaining, or permitting to be maintained or to accumulate upon any public or private property, any household waste water, sewage, garbage, tin cans, offal (by-product of any millings used for feed, trimmings from a dead animal, etc.), or excrement, any decaying fruit, vegetables, fish, meat, or bones or any foul, putrid or obnoxious liquid substance.
- B. Noxious and Unhealthy Vegetation. No property owner or tenant may allow noxious and unhealthy vegetation to grow within the city. Cultivated and useful grasses in pastures are not nuisances, except that it shall be a nuisance to refuse to provide fire breaks as deemed necessary by the City Council, within seven days after notification by the Council for the necessity therefore.
- C. Disturbance. No owner of any dog, cat or other animal, licensed or unlicensed, shall permit such animal to disturb the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises, or by destroying or defacing property or causing injury to persons or domestic animals.
- D. Undressed Hides. Undressed hides kept longer than twenty-four hours, except in an appropriate enclosed storage facility.
- E. Manure. The accumulations of manure, unless it is in a properly constructed fly-proof pit, bin or box.
- F. Breeding Places for Flies/Insects. The accumulation of manure, garbage, or anything whatever in which flies/insects breed.
- G. Stagnant Water. Any excavation in which stagnant water is permitted to collect.
- H. Dead Animals. For the owner of a dead animal to permit it to remain undisposed of for longer than twenty-four hours after its death.
- I. Garbage Handling Improperly. Throwing any manure, garbage, rubbish, filth, fuel or wood, or letting it fall on, or permitting it to remain on, any street, alley, or public ground.
- J. Throwing Litter on Streets. Throwing or depositing paper, ashes, rubbish or litter of any kind on the streets, alleys, public grounds, or private property without the permission of the occupant, within the corporate limits of the City of Onida or within Onida City Park(s).

- K. Rodents/Varmints. Accumulation of junk, old iron, automobiles or parts thereof, or anything whatever in which rodents/varmints may live, breed or accumulate.
- L. Bonfires in Public Places. Burning, causing or permitting to be burned, anywhere within the City, any filth, manure, garbage, sweeping, leaves, ashes, paper, rubbish or material of any kind *except that patio fire pits shall be permitted*. Any “bonfire” must be approved by the city council in advance of said event.
- M. Abandoned, Inoperable, Deteriorated, Wrecked or Derelict Property. Any abandoned, inoperable, deteriorated, wrecked or derelict property such as, but not limited to, vehicles, trailers, boats, machinery, household appliances, plumbing fixtures, furniture and other articles in unusable condition, having no value other than nominal scrap or junk value, if any, and which has been left unprotected from the elements, and which constitutes fire, health or safety hazard or is unsightly shall not be permitted to be kept within the city limits.
- N. Refrigerators/Iceboxes/Containers. No person, entity, or business may place unused iceboxes, refrigerators or other containers which have an air-tight door or lid, snap lock or other locking device which may not be released from the inside to have said lock or lid removed before placing them outside or stored in an building/structure that may be accessible to children.
- O. Unofficial Sign, Signal or Device. Placing, maintaining, or displaying upon or in view of any street any unofficial sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal, or which attempts to direct the movement of traffic.
- P. Election Signs—Placement of an election sign larger than 20” x 30” for a political candidate or ballot issue more than three (3) weeks in advance of an identified election in either a commercial or residential zoned area is prohibited. All elections signs must be removed from the property within one week (7days) following the election. The property owners are responsible for removal of election signs. Each violation is a city misdemeanor.
- Q. Failure to Maintain Lawn. Maintaining a lawn in such a manner that grass and/or weeds are permitted to grow more than six inches (6”) in height.
- R. Failure to Trim Trees. Each property owner is responsible to trim the trees on or adjacent to their property which obstructs sight distance and/or are lower than twelve (12) feet above the street and eight (8) feet above the sidewalk.
- S. Variance with Zoning Laws. The keeping of a premise at variance with the zoning laws applicable to the premises.
- T. Malfunctioning Plumbing Fixtures. Any malfunctioning, leaking, unclean or filthy sink, water closet, urinal or other plumbing fixture in any building open for public use.

- U. Livestock Trucks and Trailers. Parking or permitting a livestock truck or trailer to remain on any street, area or public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth.
- V. Privies and Cesspools. Erecting or maintaining any privy or cesspool except such sanitary privies and cesspools, the plans of which are approved by the State Health Department and approved by the City Council.
- W. Failure to Remove Snow and Ice from Sidewalks.
  - 1) The owner or person in possession of any property abutting on any sidewalk shall keep such sidewalk free from snow and ice and shall remove any snow or ice from the sidewalk within 72 hours after the termination of any snow fall, snow or ice accumulation.
  - 2) The owner or person in possession of any property abutting upon any sidewalk that ends at an intersection or crosswalk shall maintain the sidewalk free from snow and ice to the edge of the street. Snow and ice deposited on the sidewalk in the street removal process shall be removed within 48 hours of being deposited.
  - 3) the owner or persons in possession of any property abutting on any sidewalk within the Central Business District (along and one block either side of Main Street from the intersection of Main Street and Ash Ave to Main Street and Cedar Ave) shall keep such sidewalk from snow and ice and shall remove any snow or ice from the sidewalk within 24 hours after the termination of any snow fall, snow or ice accumulation, either natural or that which has been deposited on the sidewalk in the street removal process.
  - 4) If the City of Onida shovels sidewalks as a result of a failure to remove snow from sidewalks as required, the cost of \$250 per man-hour will be billed to the property owner, tenant, or person in possession thereof with \$250 being the minimum charged.

#### **Section VI.3.2. Maintenance and Sanitation of Premises and Buildings**

- A. Purpose. The purpose of this Section is to protect, promote and enhance the welfare, safety, health and property of the general public by prohibiting the keeping or maintaining of properties at variance with and inferior to the level of maintenance of surrounding properties.
- B. Application. The provisions of this Section shall apply to buildings and premises located in the city of Onida.
- C. Condition. It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any buildings or premises in the City to keep or maintain such building or premises in a manner, which is at variance with, and inferior to the level of maintenance of surrounding properties.

- D. Declared Nuisance. A building or premises is maintained or kept in a manner which is at variance with and inferior to the level of maintenance of surrounding properties or is hereby declared to constitute a public nuisance where there exists upon any building or premises any of the following condition or conditions:
1. Buildings that are abandoned, boarded up, partially destroyed or partially constructed and uncompleted subsequent to the expiration of building permit.
  2. Buildings with deteriorating or peeling paint that allows the exterior building coverings to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping and cracking.
  3. Broken windows, doors, attic vents and under-floor vents.
  4. Overgrown vegetation that is unsightly and/or likely to harbor rats or vermin.
  5. Dead, decayed or diseased trees, weeds and other vegetation.
  6. Trash, garbage or refuse cans, bins, boxes, bags or other such containers stored in front yards visible from public streets except when placed for pickup and, in that event, for no longer than 48 hours.
  7. Garbage, rubbish, solid waste, trash or refuse as defined, junk, tires, and debris or salvage materials visible from a public street, alley, or adjoining property.
  8. Premises having a topography, geology or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence, unstable soil conditions or surface or subsurface drainage problems as to pose a threat to or be injurious to adjacent premises.
  9. Building exteriors, walls, fences, driveways or walkways that are in serious disrepair or defaced.
  10. Any other like and similar condition or conditions.

### **Section VI. 3.3. Act or Omission**

It shall be unlawful to permit by act or omission the following specific acts, conditions and things that are hereby also declared to be public nuisances:

- A. Failing, refusing or neglecting to keep the sidewalk in front of a house, place of business or premises in a clean and safe condition.
- B. Maintaining upon a premise any unsightly, partly complete or partly destroyed buildings, structures or improvements in the City, as this may endanger or injure neighboring properties including the value thereof or the public health, safety and general welfare.
- C. Maintaining any such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract or piece of land, loose earth, mounds of soil, fill material, asphalt, concrete rubble or waste material of any kind (all such materials shall hereinafter be referred to as “waste materials”), except for waste materials used for construction or landscaping upon

premises in which case it shall be the duty of the owner, lessee, occupant, or persons in possession of premises wherein the waste materials exist, to maintain weed control during construction and to level or remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.

#### **Section VI.3.4 Long-Term Construction/Excavation Sites**

For sites where filling, grading or excavation activities have or will span more than one year it shall be the duty of the owner, lessee, occupant or person in possession of said premises to level or remove the waste materials from said premises at least once each year during the months of either June, July or August for the purpose of maintaining weeds and rodent control.

### **Chapter 4: Administrative Proceedings**

#### **Section VI.4.1 Nuisances – General**

In addition to proceeding with a civil action in Circuit Court, the City Council may proceed to abate a nuisance as set forth in the following articles.

##### **Article VI.4.1.1 Written Notice**

If a nuisance exists, the City Council directing abatement shall issue a written notice of violation except as provided for by Section VI.4.2.

##### **Article VI.4.1.2 Serving Notice**

Notice may be served by personal service, sending by certified mail or publication one time in the official newspaper of the City.

##### **Article VI.4.1.3 Appeal to Council**

Within (7) days after service of notice, an appeal may be made to the City Council in writing. The appeal shall be heard before the City Council at its next scheduled meeting. All persons who fail to appear or respond shall be deemed to have waived all objections.

##### **Article VI.4.1.4 Response to Appeal**

After hearing the appeal, the City Council may either accept the appeal or uphold the original declaration of nuisance. If the declaration is upheld, a date for completing abatement shall be established by the City Council and be included in their response to the appellant.

##### **Article VI.4.1.5 Abatement not Complete**

If abatement is not completed within the timeframe established by the City Council, they shall have authority to cause the nuisance to be abated and shall file an account of the expense thereof with the City Finance Officer.

##### **Article VI.4.1.6 Hearing.**

At least seven days after filing the account, the City Council shall hold a hearing at their meeting. Notice shall be posted or mailed to the person to whom the charges are to be assessed, announcing the time of the City Council meeting and the proposed cost to be assessed.

##### **Article VI.4.1.7 Lien**

The City Council shall hear the matter and if the account is accepted, the amount thereof shall become a lien on the property of the violator and may be specially assessed against same as provided by law.

**Article VI.4.1.8 Civil Action to Recover Cost**

The City Council shall have the option, in lieu of special assessment, to seek a civil judgment for charges incurred in abating the nuisance.

**Section VI.4.2. Nuisance – Other**

No criminal penalty or billing shall be imposed under this article unless the City causes notice to be given to all owners, tenant or persons in possession of said property.

**Article VI.4.2.1 Notice – Lawn Maintenance**

Notice shall be given to property owners whose property within said City on which that the height of the grass and/or weeds has exceeded the height of six inches (6”) and that any grass or weeds that exceed said height shall be removed within forty-eight hours. *The notice need not be given personally but may be given generally through the official newspaper annually.* The published notice shall constitute notice as required by this Section.

**Article V1.4.2.B1 Mowing**

If the City of Onida mows, the cost of \$250 per man-hour will be billed to the property owner, tenant, or person in possession thereof with \$250 being the minimum charged.

**Article VI.4.2.2 Notice – Cleaning Sidewalks.**

The city shall notify all owners or persons in possession of property abutting on sidewalks to keep such sidewalks free from snow and ice and to remove the same within 72 hours or 24 hours in the Central Business District after every fall or accumulation of snow or ice. *The notice need not be given personally but may be given generally through the official newspaper annually.* The notice shall provide that each owner or person in possession is required to keep the sidewalk in front of the premises free and clear from snow and ice. It shall further provide that if the owner or person in possession fails to remove the snow or ice within 72 hours of the falling or accumulation hereof, that the city may cause said snow or ice to be removed and charge the cost to the abutting property.

**Article VI.4.2.3 City May Remove**

If the owner or person in possession of property fails to abate the nuisance within of the time specified, the city may take remedial action to abate the nuisance and to charge the cost thereof against the abutting property. A separate charge will be incurred each time this action is initiated.

**Article VI.4.2.4 City's Cost Assessed.**

The City Finance Officer shall cause an account to be kept against each lot for the abatement and shall mail to the owner or occupant a bill for such abatement.

**Article VI. 4.2.5 Hearing for Approval of Assessment**

In the event that the bill is not paid within 30 days of billing, the City Finance Officer shall prepare an assessment against such lot or lots for lawn

mowing or the removal of snow or ice. The assessment shall be submitted to the City Council for its approval. A notice shall be published in the official newspaper advising the property owner of the time and place the City Council will meet for the purpose of approving such assessment. Such notice shall be published at least one (1) week prior to the date set for said hearing.

**Article VI.4.2.6 Approval of Assessment**

Upon the day named for the hearing at which the assessment of costs incurred by this City under *Section VI.4.2* shall be submitted for approval, the City Council shall meet. If they find said assessment to be reasonable and correct, the City Council shall approve the same, with or without modification or amendments, as they may deem proper, and file such assessment with the City Finance Officer.

**Article VI.4.2.7 Lien Declared**

From the date of approval and filing of the assessments made under this Section, the same shall be a special lien against the various pieces of property described in said assessment and shall be collected in like manner as special assessments are now collected for public improvements.

**Article VI.4.2.8 Recovery by City**

In lieu of spreading the cost of abatement as a special assessment against property under this Section, at the discretion of the City Council, said amount may be recovered in a civil action against the owner or occupant of said property.

**Article VI.4.2.8 Liability of Offenders**

Any person whose duty it shall be to abate these nuisances as provided in this Section, in addition to the penalties prescribed for the violation of this Ordinance shall be liable to the City for any damage caused by the neglect.

**Article VI.4.2.9. Penalty for failure to comply with Section**

Any person, whose duty it is to abate these nuisances as provided in this Section within the time prescribed shall, for a violation thereof, be subject to the penalties that may be imposed for a violation of this Ordinance in addition to the other penalties described in this Section.



## Title VII: Animals

### Chapter 1: Authority/Purpose

The purpose of this title is to describe the conditions and requirements allowing citizens to keep animals within the City of Onida.  
(SDCL 9-29-12)

### Chapter 2: Definitions

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

- a. *“Abandonment”*-Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.
- b. *“Animal”*-Any live creature, both domestic and wild, including mammals (except humans), birds, reptiles, amphibians, or fish.
- c. *“Animal Control Officer”*-An individual, approved by the governing body, with police authority, whose duty it is to apprehend animals within the jurisdiction of this chapter whose owner are in violation of this chapter. The Sully County Sheriff's department staff shall also act as animal control officers.
- d. *“Animal Shelter”*-A building and facilities therein which is approved by the governing board for the impounding of animals.
- e. *“Anti-Escape”*-Any housing, fencing or device which a guard dog cannot go over, under, through or around.
- f. *“At Large”*—
  1. An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of its immediate family by a leash.
  2. An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless that animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.
- g. *“Cruelty”*-Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in siphoned quantity. In the case of activities where physical pain is necessarily caused, such as medical and scientific research, food processing, customary and normal veterinary and agricultural husbandry practices, pest elimination, and animal training and hunting, “cruelty” shall mean a failure to employ the most humane method reasonably available.

- h. *“Contracted Agent”*- The person, organization, governmental agency or corporation with whom the municipality and/or county contracts to perform animal control functions.
- i. *“Dangerous Animal”*- Any animal that, by itself or by environmental circumstances, at the determination of any agent or officer of a humane society, or any peace officer after investigation, is a threat to the physical well-being of other owned animals or humans. (SDCL § 40-1-2.5)
- j. *“Disturbance”* - The act of disturbing the peace and quiet of the neighborhood by continuous barking or making other loud or unusual noises.
- k. *“Domestic Animal”* - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind.
- l. *“Exposed To Rabies”* - An animal has been *EXPOSED TO RABIES* if it has been bitten by, or been exposed to, any animal known to be or suspected of being infected with rabies.
- m. *“Feral Animals”* – Any livestock or pets not effectively controlled by any person and exhibiting predatory, scavenger or vicious tendencies. (Ord 6.06.01c)
- n. *“Guard Dog”* - Any dog that is utilized to protect property., y
- o. *“Handler”* - A person who is responsible for or capable of controlling the operations of a guard dog.
- p. *“Humane Society Investigator”* - An individual, approved by the governing body, with law enforcement authority, whose duty it is to apprehend animals within the jurisdiction of this chapter, whose owners are in violation of this chapter.
- q. *“Impoundment”* - Taking physical control and custody of an animal by any law enforcement officer, animal control officer, or any authorized representative.
- r. *“Inhumane Treatment”* - Any act of mistreatment, torture, cruelty, neglect, abandonment, mutilation, or inhumane slaughter of an animal that is not consistent with generally accepted training, use and husbandry procedures for the species, breed, physical condition, and type of animal. (SDCL § 40-1-2.4)
- s. *“Kennel”* - Any lot or premises or portion thereof where four or more dogs, cats, rabbits, or other household/domesticated animals, six months of age or older, are maintained, boarded, bred or cared for, in return for any compensation, or are kept for the purpose of sale.
- t. *“Mistreatment, Torture Or Cruelty Of Animals”* - Any act or omission whereby unnecessary, unjustifiable, or unreasonable physical pain or suffering is caused, permitted, or allowed to continue including acts of mutilation. (SDCL § 40-1-2.2)

- u. *“Neglect”* - The failure to provide food, water, protection from the elements, adequate sanitation, adequate facilities, or care generally considered to be standard and accepted for an animal's health and well-being consistent with the species, breed, physical condition, and type of animal. (SDCL § 40-1-2.3)
- v. *“Neutered Dog/Cat”* - Any male dog/cat which has undergone surgery to prevent reproduction, whose owner can provide proof of surgery.
- w. *“Nuisance”* - The act of destroying or defacing property or causing injury to persons or domestic animals.
- x. *“Owner”* - Any person harboring or keeping an animal and who is the head of the household of the residence of the owner or manager in charge of the establishment or premises at which an animal remains or returns to. An animal shall be deemed harbored if it is fed or sheltered for 20 consecutive days. (SDCL § 40-12-4)
- i. *“Pet”*- Any dog, cat, or other species of carnivore kept for domestication or display. (SDCL § 40-12-4) Note: Guide dogs are not considered pets.
- ii. *“Proper Enclosure”* - A secure confinement, as determined by the board, any agent or officer of a humane society, or any peace officer, indoors or in a securely enclosed or locked facility, suitable to prevent a dangerous animal from escaping and to prevent any physical threat to the well-being of any other animal or human, while not constituting inhumane treatment.(SDCL § 40-1-2.6)
- iii. *“Restraint”* - A leash or chain, not longer than six feet in length, held by a competent person, or enclosing an animal within a vehicle being driven or parked on the streets, or keeping the animal within the property limits of its owner or keeper.
- iv. *“Service Animal”* - Any dog owned by any state, county or municipal police department or any state of federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for law enforcement purposes, or any properly trained dog certified by a licensed seeing-eye or hearing-ear dog agency and actually being used by a visually or hearing impaired person.
- v. *“Spayed Dog/Cat”* - Any female dog/cat which has undergone surgery to prevent conception, whose owners can provide suitable proof of such surgery.
- vi. *“Wild Animal”* - Any animal(s) other than domestic dogs and cats, which in a wild state are carnivorous or which because of their nature or physical make up are capable of inflicting serious physical harm or death to human beings, including but not limited to: animal(s) which belong to the cat family, snakes which are poisonous or otherwise present a risk of serious physical harm of death to human beings as a result of their nature or physical makeup, and all raccoons, skunks, foxes, bears, coyotes, wolverines, badgers, lions and tigers.
- vii. *“Vicious Animal”* – Any animal which, in a vicious or terrorizing manner, approaches in an apparent attitude of attack, or bites, inflicts

injury, assaults or otherwise attacks a person or other animal whether on public or private property, provided that the animal has not been provoked to do so by teasing, tormenting, abusing, or assaulting the animal.

## **Chapter 3 Licensing Requirements**

### **Section VII.3.1 Dog and Cat License Required**

Any owner of a dog or cat shall make application at the City Finance Office for the appropriate dog or cat license/tag. The fee is \$7 for each unneutered cat/dog and \$5 for each neutered cat/dog.

## **Chapter 4 General Requirements**

### **Section VII.4.1. Types of Allowable Animals**

No person shall keep, maintain, harbor or have in custody or under control any animal within the city of Onida, except as otherwise provided in this title.

- A. Allowable small animals/pets include those that can be bought from a commercial pet store in the State of South Dakota; except alligator, crocodile, cayman, raccoon, skunk, fox, bear, sea mammal, poisonous snakes, prairie dogs, poisonous insects, hybrids, member of the feline species other than domestic cat (*felis domesticus*), member of the canine species other than domestic dog (*canis familiaris*) or any other animal that would require a standard of care and control greater than that required for customary household pets; are allowable animals authorized by this ordinance and can be kept in the City. A license is required for dogs and cats.
- B. No large domesticated livestock or domesticated fowl of any kind including but not limited to, horses, cows, goats, swine, sheep, ducks, geese, chicken, pigeons, turkeys, guineas, etc. are allowed to be kept within in the city limits except at the fair grounds during special events or with special permission of the county, city or school personnel.

### **Section VII.4.2 Number of Animals**

It is unlawful for any person to own or keep in their care on any premises more than six (6) animals, of which nor more than three can be dogs and three can be cats, over the age of 6 months (except fish) unless a special license/permission has been granted by the city council.

### **Section VII.4.3 Running at Large Prohibited**

No owner of any animal shall permit such animal to be at large. Any owner whose animal is not confined by a leash or enclosed is declared to be running at large and is declared to be a public nuisance. Such violation will be considered a city misdemeanor. The local law enforcement agency or a designated animal control officer is authorized to catch any animal running at large or causing a nuisance.

**Section VII.4.4 Animals Disturbing the Peace/Nuisance**

- A. No person owning any dog or other animal confined on the premises or otherwise, shall permit such animal to disturb the peace and quiet of the neighborhood by making loud and/or unusual noises.
- B. As determined by local law enforcement, or upon a signed complaint with the Sheriff's Department, that any person is keeping or harboring any animal which disturbs the peace, it shall be the duty of the Sheriff's Department to notify the owner of such animal in writing of such complaint, and after such owner has been given forty-eight (48) hours notice of such habit, any law enforcement officer or person of proper authority is authorized to impound any such dog or animal so disturbing the peace. In addition to the impounding fees, each violation shall be considered a city misdemeanor.

**Section VII.4.5 Cruelty Prohibited**

No person shall cruelly torture, beat, or injure any domestic animal. Nor shall any person willfully or intentionally abuse or neglect in a cruel or inhuman manner any such animal.

**Section VII.4.6 Defecation Removal/Removal of Excrement**

No owner of any animal shall allow such animal to defecate on public or private property other than his/her own property. If an animal does defecate on public or private property, the owner shall immediately clean the fecal matter from such property.

**Section VII.4.7 Abandonment Prohibited**

It is unlawful for any person to abandon an animal in the City of Onida.

**Section VII.4.8 Rabid Animals**

No person shall knowingly keep any animal infected with rabies or any animal that has been bitten by an animal that has been infected with rabies.

**Section VII.4.9 Transmission of Disease**

No person shall create or maintain any condition or operate any equipment or keep any animal, fowl, pet or insect under their control in such a way that such condition or operation causes or is likely to cause the transmission of diseases from animals or insects to man.

**Section VII.4.10 Poison**

- Unless recommended by a veterinarian, it shall be unlawful for any person to:
- 1. Willfully administer or cause to be administered, poison of any sort whatsoever to any animal, that is the property of another with the intent to injure or destroy such animal, or
  - 2. Willfully place any poison or poisoned food where the same is accessible to any such animal.

**Section VII.4.11 Hunting, Trapping and Destruction**

No person shall hunt, trap or otherwise injure or destroy any pet within the City of Onida. This provision shall not apply to licensed veterinarians, law enforcement officers, or animal control officer.

## **Chapter 5: Vicious Animals**

### **Section VII.5.1 Ownership**

- A. Any person owning or keeping a vicious dog as defined in SDCL 40-34-13 through 40-34-14 or any corresponding state law has committed a public nuisance and is subject to the provision of SDCL 21-10-4, 21-10-9 or corresponding state law.
- B. No person shall permit feral animals, or vicious animals of any type, to remain upon property owned or occupied by any person within the City of Onida. Such animals must be promptly reported to the Sheriff's Department and the City Finance Office

### **Section VII.5.2 Who May Declare**

The Mayor, animal control officer, a law enforcement officer or an attending physician of any victim of an animal bite or scratch may declare an animal vicious.

### **Section VII.5.3. Willful Trespass or other Tort**

No animal may be declared vicious if the injury or damage is sustained to any person or animal that is committing a willful trespass or other tort or criminal act upon premises occupied by the owner or keeper of the animal.

### **Section VII.5.4. Notification**

When an animal is declared to be vicious as provided for above, the City's acting law enforcement agency shall notify the owner or keeper of said animal of said declaration in writing that such animal is vicious. Such notice shall be served either in person or by certified mailed within 48 hours of such declaration.

### **Section VII.5.5. Compliance Required**

The owner or keeper of an animal that has been declared vicious then must comply with the following:

- a. If the animal is kept indoors, the animal shall be under the control of a person over 18 years of age.
- b. If the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six (6) feet and under the control of a person over 18 years of age.
- c. If the animal is outdoors and unattended, the animal must be locked in an escape proof kennel approved by the Sheriff's Department representative.

### **Section VII.5.6. Animals off Premises May Be Seized**

Any vicious animal found off the premises of its owner or caretaker, other than as provided for in this Ordinance, shall be seized by the animal control officer or any law enforcement officer and impounded. If the animal cannot

be captured, it may be destroyed. If the animal has been running at large, or bites a person, or bites another animal, the animal control officer or any law enforcement officer may order the owner to deliver the animal to the animal shelter within 24 hours. The owner shall be ordered to appear to show just cause why this animal shall not be destroyed. If the owner of the animal fails to deliver the animal as ordered, the animal control officer or any law enforcement officer shall use such means as is necessary to impound the animal.

#### **Section VII.5.7. Kennel Standards**

Minimum standards shall include the following:

- a. Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of a wooden fence the gaps shall not be more than two (2) inches.
- b. Any gates within such pen or structure shall be lockable and of such design to prevent the entry of children or the escape of the animal.
- c. The required pen or structure shall have a top and bottom with both secured to the sides.
- d. The pen or structure shall protect the animal from the elements.
- e. The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects within reach of the animal.
- f. A sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.

#### **Section VII.5.8. Insurance**

The owner shall carry a minimum of \$100,000 liability insurance covering the medical and/or veterinary costs resulting from the vicious actions or any other damage the animal may do or cause to be done. Proof of such insurance shall be filed with the Sheriff's Department and the City Finance Office.

#### **Section VII.5.9. Licensing Requirements**

The owner shall comply with the licensing requirements of the City Ordinances as indicated in Section VII.3.1 and present proof of a current rabies vaccination.

#### **Section VII.5.10. City May Impound**

The City or Sheriff's Department, at the owner or keeper's expense, may impound the vicious animal until such time as all provisions outlined above are complied with.

#### **Section VII.5.11. Euthanization**

If the conditions outlined above are not complied with, the owner shall euthanize the animal in a humane manner. Proof of euthanasia shall be filed with the City Office.

**Section VII.5.12. Prosecution**

The owner may be subject to prosecution for failure to comply. Animals impounded under this section shall be dealt with as provided herein.

**Chapter 6 Enforcement****Section VII.6.1. Authority**

The Animal Control Officer, any law enforcement officer, or other persons of proper authority is hereby authorized and empowered to enforce all provisions of this Title.

**Section VII.6.2. Interference Prohibited**

No person shall hinder, delay or obstruct any person in their ability to enforce the provisions of this Title.

**Section VII.6.3. Allowable Enforcement Activities**

Any person authorized to enforce the provisions of this Title shall, having reasonable basis to believe a violation of this ordinance has occurred, have the power to:

- a. Lawfully enter the premises where the animal(s) is (are) kept;
- b. Examine such animal; and
- c. Take possession and impound such animal(s), when in the officer's opinion, a violation has occurred. Any animal impounded under this section shall be dealt with as provided herein.

**Section VII.6.4. Impounded Animals**

Any impounded animal shall not be released by the Animal Control Officer/Sheriff's Department to any person until such animal has been immunized against rabies; provided no animal so impounded shall be immunized if the owner can present a certificate of current immunization having been previously performed.

**Article VII.6.4.1. Notice to Owner**

The owner of any animal impounded under the provisions of this Ordinance, if his identity and location can be obtained by reasonable means, shall be notified within twenty-four (24) hours that his animal has been impounded.

**Article VII.6.4.2 Costs**

- a. Before any person may redeem any animal impounded under the provision of this Ordinance he/she shall pay to the City Finance Officer an impoundment fee of twenty (\$20.00) plus eight dollars (\$8.00) per day or other actual costs incurred by the city, for feeding and caring of such animal. The person redeeming such impounded animal under the provisions of this Ordinance shall receive a dated receipt signed by the City Finance Officer. The receipt for payment of impoundment and boarding costs must be presented to the person, association or corporation housing the impounded animal before such animal may be redeemed.



- b. The owner of any impounded animal that has not been vaccinated or licensed under this Chapter, upon satisfactory proof of ownership, may redeem the animal by payment of the fees determined above. In addition, by making a deposit of twenty-five dollars (\$25.00) the owner shall be allowed forty-eight (48) hours to get such animal vaccinated and properly licensed. If the owner fails to produce a certificate of vaccination and city license within forty-eight (48) hours, the deposit shall be forfeited and turned over to the City Finance Officer to be placed in the general fund and the animal may be impounded again. Upon representation within forty-eight (48) hours of a license issued under Title, the deposit shall be refunded.
- c. If the owner of any impounded animal shall fail to redeem the animal within seventy-two (72) hours, excluding Sundays and holidays, unclaimed animals will become the property of the contracted animal control organization. Unclaimed animals may be put up for adoption or disposed of at the discretion of that organization.

## **Chapter 7: Rabid Animals**

Anytime the Animal Control Officer or any law enforcement officer or the SD Animal Industry Board suspects an animal within the City is infected with rabies, the animal may require it to be impounded for observation as hereinafter provided. (SDCL 40-12-0 thru 40-12-6 and SCCL 7-12-29).

### **Section VII.7.1. Report of Suspected Cases.**

Any person who shall suspect that any animal in the city is infected with rabies shall report said animal to the Animal Control Officer, or the local law enforcement, describing the animal and giving the name and address of the owner if known.

### **Section VII.7.2. Impoundment for Observation.**

- A. When any owner of an animal has been notified that the animal has bitten or attacked any person, the owner must within 24 hours place the animal under the care and observation of the Animal Control Officer/Law Enforcement Agency or a licensed veterinarian. The period of observation shall be a period of not less than ten days except in those cases when an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for the animal. The Animal Control Officer, or any law enforcement officer, may, if he feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case the owner must sign a statement and understand the responsibility and assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.

- B. At the end of the ten-day observation period the animal shall be examined by a licensed veterinarian and, if cleared, may be reclaimed by the owner and the owner must pay the expenses incurred incident thereto.
- C. Any animal impounded or placed for observation, showing active signs of rabies, suspected of having rabies or known to have exposed to rabies shall be confined under competent observation for such time as may be deemed necessary to determine a diagnosis.
- D. Any animal that has bitten or attacked that cannot be captured may be destroyed in such a manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

#### **Section VII.7.3. Destruction of Rabid Animals.**

Any animal reasonably believed to have rabies, and if, under the circumstances, it is not reasonable to impound or to attempt to seize that animal for the purpose of further observation, a law enforcement officer or the Animal Control Officer may destroy the animal. The owner shall pay any expense incident to the impoundment destruction of diagnosis of rabid animals thereof. Neither the City nor any person authorized by this section shall be liable for the destruction of any animal when done under circumstances as set forth in this section.

## **Title VIII: Other Offenses**

### **Chapter I: Disorderly Conduct**

#### **Section VIII. 1.1 Types of Disorderly Conduct**

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder, nuisance, or if his/her conduct is likely to cause public danger, alarm, disorder or nuisance, he/she willfully does any of the following acts in a public place:

- A. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of life, limb or health.
- B. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- C. Causes, provokes or engages in a fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another, except in exhibitions duly authorized and licensed by law.
- D. Interferes with another's pursuit of a lawful occupation by acts of violence.
- E. Obstructs, either singly or together with any persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or place when ordered to do so by a law enforcement officer or other authorized official.

- F. Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for their own safety or the safety of others.
- G. Resists or obstructs the performances of duties by a law enforcement officer or other authorized official.
- H. Incites, attempts to incite, or is involved in attempting to incite a riot.
- I. Addresses abusive language or threats to any law enforcement officer, or any other authorized official of the city who is engaged in the lawful performance of his/her duties. Words merely causing displeasure, annoyance or resentment shall not be prohibited.
- J. Failure to obey a lawful order to disperse by a law enforcement officer or other authorized official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened.
- K. Makes or caused to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road or common, whereby the public peace is broken or disturbed or the traveling public annoyed.

#### **Section VIII.1.2 Definitions**

As used above, the following definitions shall apply:

- A. Public Place--Any place where the general public has access for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely for use by the public. It shall also include the front or immediately area of any store, shop, restaurant, tavern or other place of business and also public grounds, areas or parks.
- B. Riot—A public disturbance involving an act or acts of violence by one or more persons or an assembly of three where the performance of the threatened act or acts of violence could constitute a clear and present danger of, or would result in, damage or injury to the property of any person or to the persons of any other individual.
- C. Inciting Riots—Shall mean, but is not limited to, urging or instigating other persons to riot by the mere oral or written advocacy of ideas or expression of belief.

This section shall not be construed to suppress the right of lawful assembly, picketing, public speaking or lawful means of expressions public opinion. (SDCL 9-29-2 and 22-18-35)

### **Chapter 2: Open Containers**

It shall be unlawful to consume any beer/malt beverage or alcoholic beverage or to possess any glass, can, or other container containing beer/malt beverage or any alcoholic beverage on which the seal has been broken, in any public place, vacant building, automobile, street, alley, sidewalk or place of amusement or business

establishment not authorized to sell beer or alcoholic beverages, unless approved by the City Council. (SDCL 35-1-5.3 and SDCL 35-1-9.3)

### **Chapter 3: Indecency/Public Nudity**

#### **Section VIII.3.1 Appearing Nude/Indecent Acts**

- A. It is a violation, for any person in a public place to knowingly or intentionally, to appear personally in a state of nudity. Nudity shall mean the showing of the bare human male or female genitals, anus or public area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of the areola and nipple or the showing of the of male genitals in a discernible turgid state.
- B. No person shall urinate or defecate in any public place other than at facilities provided for that purpose.
- C. It shall be unlawful for any person or entity maintaining, owning or operating any public place to operate and knowingly, or with reason to know, permit or allow any person to appear nude in such public place.

### **Chapter 4: Begging**

No person shall beg upon any public street or in any public place.

#### **Section VIII.4.1 Definition**

For the purposes of this section “beg” means solicit money or other valuable consideration without giving valuable consideration in return. Solicitation consists of communication by words, signs or other conduct of a desire to receive charity. Begging shall not include solicitations by a bona fide veterans’, religious, charitable, educational or fraternal organization, local civic or service club, political party or volunteer fire department or political committee; provided, however, that the proceeds there from do not accrue to the benefit of any individuals, and the person making the solicitation identifies, prior to the solicitation, the organization for which he/she is soliciting.

#### **Section VIII.4.2 False Identification**

It is unlawful for any person to falsely identify himself/herself as soliciting on behalf of any bona fide organization as designated in Section VIII.4.1.

### **Chapter 5: Other Activities Prohibited Regarding City Property**

#### **Section VIII.5.1 City Property**

- A. No person shall put up, erect, hang, post or suffer to remain so placed any sign, poster, notice or other advertising matter, upon any city owned property in the city without the prior approval of the city.
- B. No person shall paint, print, write, post or in any manner place upon any public sidewalk or crosswalk in the city, any letters, words, figures, signs, pictures, notices or advertisement of any kind.

- C. No person shall deface, remove, change, mar or in any way interfere with or obliterate either wholly or in part any sign, signboard, or card placed, posted, extended or erected by the city.
- D. No person shall climb or in any manner interfere with any building, water tower, or structure belong to the city, without being authorized so to do by the city; and no person shall in any manner injure or deface any such structure.

## **Chapter 6: Fireworks and Firearms**

### **Section VIII.6.1 Discharging Weapons**

- A. No person shall discharge any pistol, gun, revolver, or other firearm or any bow and arrow, or any device capable of firing a projectile either by air or compressed gas or any other means which would likely cause injury to any person, or discharge any dangerous weapon, within the city limits. Law Enforcement officers in the performance of their duties are exempted. The city council may grant exception for special events or activities.
- B. On a case-by-case basis, the Sully County Sheriff may grant permission in writing to any resident of the city to discharge or fire any gun, air rifle, slingshot or other dangerous weapon within the city limits upon showing of a necessity for doing so provided that such discharge is upon the resident's leased or owned property.

### **Section VIII.6.2 Fireworks**

#### **Article VIII.6.2.1 Definition**

The term fireworks under this chapter shall refer to fireworks that are authorized by state law to be used by or sold to the general public.

#### **Article VIII.6.2.2 Sale and Use Prohibited**

It shall be unlawful to keep for sale, display or use any fireworks within the city limits of Onida, except as hereinafter permitted.

#### **Article VIII.6.2.3 Authorized Period of Sale**

The fireworks as set out in this section shall be sold only from June 27<sup>th</sup> of each year up to and including the 5<sup>th</sup> day of July of each year, except that toy cap pistols and toy caps may be sold at any time.

#### **Article VIII.6.2.4 Use and Sale**

A. The discharge of fireworks within the City of Onida shall be unlawful except between the hours of 10:00 a.m. and 10:00 p.m. from June 29<sup>th</sup> and extending through July 5<sup>th</sup>. B. Fireworks may be discharged within the City of Onida on the Fourth of July between the hours of 10:00 a.m. and 12:00 midnight.

#### **Article VIII.6.2.5. Special Exceptions**

Application for a special exception to this section for a fireworks display at any other time may be made to the City Council and the council may grant the application setting forth any conditions and restrictions, as they may deem appropriate.

## **Chapter 7: Minors**

**Section VIII.7.1 Loitering Prohibited/Curfew Hours**

It shall be unlawful for any minor person under the age of sixteen (16) years between the hours of 11:00 p.m. and 6:00 a.m. of the following day, official city time on the days Sunday through Thursday and between the hours of 12:00 midnight and 6:00 a.m. of the following day, official city time on Friday and Saturday to:

- a. Loiter, idle, wander, stroll, or play, or ride or be in any motor vehicle in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or other unsupervised places, or
- b. Be or remain in any dance hall, restaurant, café, theatre, or other public place.
- c. The provisions of this section do not apply to a minor accompanied by his or her parents, legal guardian or other adult person having the care and custody of the minor. Nor does it apply where the minor is upon an emergency errand or legitimate business, directed by his or her parent or legal guardian or other adult person having the care or custody of the minor.
- d. An exception to the curfew will be made in the case of activities officially sponsored by the school, church, or the city; the curfew hours will extend one-half (1/2) hour beyond the time the activity ends in such cases.

**Section VIII.7.2 Responsibility of Parents**

It is unlawful for the parent, guardian or other adult person having the care and custody of a minor under the age of sixteen to knowingly permit such minor to violate the above section.

**Section VIII.7.3 Responsibility of Others**

It shall be unlawful for any person, firm or corporation operating places of amusement and entertainment, restaurants, cafes, theatres or other public places to permit minors to enter or remain in such places or other public places during the hours prohibited under this chapter. No owners or operator of any motor vehicle shall knowingly permit or allow any minor under age sixteen (16) to violate the provisions of this chapter; provided, however, that the provision of this section do not apply when the minor is accompanied by his or her parent, guardian or other adult having the care and custody of the minor.

**Section VIII.7.4 Penalty**

Any minor who violates any of the provision of this chapter shall be subject to arrest by any law enforcement officer; upon such arrest he or she shall be delivered to into the hands of the parents or guardian. Upon a second or subsequent arrest, such offender shall be dealt with in accordance with the Juvenile Law and Procedures of Sully County and the State of South Dakota.

**Chapter 8: Noise**

**Section VIII.8.1 Loud and Unnecessary Noises Prohibited**

No person shall make, continue or cause to be made, continue, or cause to be made or continued any loud or unusual noise so as to disturb the peace of the public, any neighborhood, any business operation, family, lawful assembly of persons, or any person by committing any act or acts of disturbance within the limits of the City of Onida.

**Section VIII.8.2 Maximum Permissible Sound Levels**

Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated from a facility shall not exceed the values given in Table I below. The sound pressure level shall be measured with a sound level meter and on an associated octave band analyzer, both of which are manufactured according to current specifications prescribed by the American National Standards Institute. Measurement shall be made using the flat network of the sound level meter.

Table I—Noise Levels	
Octave Band Frequency (Cycles per Second)	Maximum Decibel Levels
20-75	65
75-150	60
150-300	55
300-600	46
600-1200	40
1200-2400	34
2400-4800	31
4800-over	28

**Section VIII.8.3 Exemptions**

The following uses and activities shall be exempt from noise level regulations:

- A. Noise of safety signals, warning devices and emergency pressure relief valves.
- B. Noise resulting from any authorized emergency vehicles when responding to an emergency call or acting in time or emergency.
- C. Noise resulting from emergency work.
- D. School outdoor concerts and music activities including marching band activities, sporting activities with musical components, art festivals and student fund-raisers.
- E. Religious organizations conducting worship services outdoors with musical components.
- F. The City of Onida, including but not limited to parks and recreation unit sponsored activities with musical components.
- G. Permits issued by the City of Onida.

## **Title IX: Licenses/Business Operations**

### **Chapter 1: Gambling/Raffles**

#### **Section IX.1.1 Gambling Prohibited**

- A. No person shall play inside city limits any game of chance, cards, dice, slot machines, roulettes, chuck-luck, punch boards, bingo etc. upon which money or any article of value is staked, or to resort to, attend or be present where such gambling games or games of chances are carried on.
- B. No person shall inside city limits keep/operate any building or part of any building for gambling.
- C. Exceptions:
  1. In accordance with SDCL, business owners may operate video lottery and games of chance that are under the control of the state.
  2. The city council may grant upon request approval for raffles, bingo, and other games of chance which are operated by the volunteer fire department, veterans' organizations, religious organizations, and other philanthropic/civic organizations.

### **Chapter 2: Liquor Licenses/Alcoholic Beverages**

#### **Section IX.2.1 License Required**

No person shall sell, offer for sale, keep for sale, exchange, distill, manufacture, produce, bottle, blend or otherwise concoct, within the city any alcoholic beverage as defined by state statute, without having a license therefore as required by South Dakota laws. (SDCL 9-29-7).

#### **Section IX.2.2 Application and License Fees**

In any instance in which applications may qualify, applications for licenses for the sale of alcoholic beverage in the City of Onida shall be submitted as prescribed by South Dakota Laws. (SDCL 35-4-2)

#### **Section IX.2.3 License Restrictions**

- A. Applications for on-sale and off-sale liquor and malt beverage licenses shall have the necessary fees attached upon being submitted to the City as required by South Dakota Laws, and the granting and retention of such licenses will be provided by the South Dakota laws and local regulations. (SDCL 35-2, SDCL 35-2-10)
- B. Any licensee under this Chapter must not have been convicted of a felony. (SDCL 35-2-6.2)
- C. The City of Onida shall approve a maximum of three (3) on-sale licenses inside the municipality.
- D. The City of Onida shall approve a maximum of two (2) off-sale licenses inside the municipality.



**Section IX.2.4 Location of Business**

- A. The City shall not issue any licenses to any person(s), business or group where the location of such business would not be considered desirable in accordance with SDCL (SDCL 35-2).
- B. The city shall not issue any on-sale or off-sale liquor licenses unless the premises are located within a designated commercial district as defined by zoning regulations.

**Section IX.2.5 Hours of Business**

- A. Every “On-sale” dealer of any type of alcoholic beverage, distilled spirits, wines and malt beverages shall flash the lights of his place of business at 1:45 a.m. each day as a warning that within 15 minutes the licensed premises will be closed. By 2:00 a.m., every public facility “On-sale” dealer shall clear his premises of all persons except employees and shall lock all doors to the premises and shall turn out all light thereon, except a night light. Such night light shall burn from 2:00 a.m. until daylight of the following day. Each public facility on-sale dealer shall leave the place of business or premises by 3:00 a.m. It shall be unlawful for such dealer to open to the public again for business until 7:00 a.m.; however the “On-sale” dealer and his employers may enter upon the premises at 6:00 a.m. for the purposes of maintenance, cleaning and preparing for the days business.
- B. No “On-sale” licensee may sell, serve or allow to be consumed on the premises covered by the license, alcoholic beverages of any type between the hours of 2:00 a.m. and 7:00 a.m. or on Sunday after 2:00 a.m. or on Memorial Day after 2:00 a.m., or at any time on Christmas Day. (SDCL 35-4-81)
- C. No “Off-sale” licensee may sell, or allow to be sold, alcoholic beverages between the hours of 12:00 midnight and 7:00 a.m. of the following day, or sell or allow to be sold distilled spirits or wine on Memorial Day or Christmas Day. “Off-sale” licenses may sell, or allow to be sold alcoholic beverages on Sunday in compliance with South Dakota State law. (SDCL 35-4-81.1)
- D. All “on-sale” and “off-sale” malt beverage or wine sales are intended to remain consistent with South Dakota State Law. If not otherwise specified herein, State law shall control said sales and distribution.
- E. Any of the public facility “On-sale” dealers having on their licensed premises a duly licensed restaurant pursuant to SDCL 34-18 and who comply with all ordinances applicable thereto and which restaurant is operated in a room separate and apart from the room wherein intoxicating liquor is or can be dispensed may, notwithstanding anything to the contrary set forth in this section, continue to operate exclusively as a restaurant, provided all intoxicating liquor and the facilities for dispensing it are isolated and contained in a separate room devoted principally to the use of dispensing and consuming of alcoholic beverages and which room with its alcoholic contents is vacated, closed and located as provided in this section.

**Section IX.2.6 Violations**

Any person, firm or licensee in violation of any of the provisions of this Chapter may be prosecuted in accordance with SDCL. Whenever any person acting as clerk, servant, agent, or employee of any other person or establishment violates any of the provision of this Chapter or SDCL pertaining to liquor licensed establishments that person shall also be deemed as guilty as a principal. Failure to comply with all SDCL and local laws of this chapter shall provide cause for revocation of any license granted under the provision of South Dakota law. (SDCL 35-2-10)

**Section IX.2.7 Sanitation Facilities**

Every “On-sale” dealer shall maintain upon his licensed premises, toilets properly connected to the city’s sewer system with separate facilities for men and women. In each such facility there shall be maintained running water and towels for use by the users of such facilities (or approved sanitary drying facilities).

**Section IX.2.8 Other Requirements**

Every business licensed under this chapter shall maintain their facilities in order to pass state health and licensing inspections.

**Chapter 3: General Requirements**

Every business shall follow the licensing requirements of the State of South Dakota and maintain their facilities in order to pass any and all state health and licensing inspections.

**Title X: Utilities**

The City of Onida owns and operates electricity, water and wastewater utilities.

**Chapter 1: Electric****Section X.1.1 Connection Procedure**

- A. It shall be the responsibility of persons needing electric service from the City of Onida to have the service approved by the city and a wiring permit obtained from the State of South Dakota before work begins. This includes new service lines, both underground and overhead and service lines that need to be replaced.
- B. All work to be performed must be acceptable to the City of Onida and comply with the National Electric Safety Code (NESC) as well as any state and local codes—always meeting the more stringent requirements.
- C. The city will provide a meter socket and meter for such installation. The meter will be installed on a pole or pedestal (if a ground type transformer is used) located in the alley behind the residence/business. This applies to both new and existing (if upgrade or repair work is done) services. All costs for wire, boxes, cut-outs, etc., and installation costs from the meter to the

resident/business shall be the responsibility of the person or persons requesting service. In cases where the pole or pedestal is not on the lot line, or across the alley, the city will bear costs of material and installation of service to the lot line. The city will provide the hook-up and materials needed from the power source to the meter socket. All new services shall be underground.

- D. Any improvements made after the initial installation are the responsibility of the homeowner/business. Repair work from the meter to the structure is also the responsibility of the homeowner/business.
- E. Exceptions—any and all exceptions shall be approved by the City Council or the City Operations Manager prior to the work being performed.

### **Section X.1.2 Electric Rates /Meter Deposit Fee**

- A. Electric rates effective with the February, 2012 billing (Ord X.1.2A1)
  - 10.50 (ten dollars and fifty ) cents per kwh for regular electricity
  - 7 ¼ (seven and a quarter) cents per kwh for electric heat/dual fuel
  - \$\$10.50 demand charge

Fixed Electrical Charges are:

\$7.00 for residential  
\$15.00 for commercial

- B. The city requires a \$100 meter deposit for each electrical service in the city. When the occupants leaves the premises with utility bills (electric, water, sewer and garbage) fully paid, they shall receive this deposit back. If utility the utility bill is not paid in full, this amount is kept in payment of the bill.
- C. Each user may participate in a voluntary dual fuel program whereby the city allows a credit per kwh for each kilowatt used during the program. Dual fuel credits shall be in effect for the October to April billings.

## **Chapter 2: Wastewater**

### **Section X.2.1 Tapping Fee**

Each wastewater/sewer service connection shall be charged a \$50 tapping permit fee.

### **Section X.2.2 Connection/Disconnection Procedure**

- A. It shall be the responsibility of the persons needing sewer service to contact the city finance office to obtain a permit to open a sewer main to make the proper connection. The connector pipe, saddles and all other work performed must be approved by the city. All costs will be the responsibility of said person asking for service. This includes pipe, saddles, trenching, backfill and repair and of the street when applicable and all related incidental costs.
- B. All sewer pipes must be 8 inch state standard/recommended pipe.
- C. Persons or contractors doing the trenching and backfill are required to compact the entire depth of the trench with suitable materials that will pack and be responsible for any asphalt replacement when needed to match existing street surfaces. If the above conditions are not met the,

the city will do this work at a cost of \$150 per hour to be levied against the contractor or the persons requesting service.

- D. Repair work will be the responsibility of the owner of the property from their residence/businesses to the main sewer line. Sand or gravel will be used for the bed for pipe and gravel on top of the trench on city property.
- E. When a disconnection from the sanitary sewer is made, the sewer service shall be closed to the satisfaction of the city operations manager. Closure shall be at the curb line on residential property and the property line of commercial property.
- F. Any property owner located outside the city limits who has obtained special permission from the city to connect to the city sewer lines shall be responsible for maintaining said lines in working order and in compliance with any Federal, State or local laws.
- G. No property owner inside city limits shall be allowed to operate their own septic system unless approved by the city council. No property owner shall be allowed to utilize port-a-potties or other outdoor privy systems. The use of port-a-potties for special events may be permitted by the city council for special events.

#### **Section X.2.3 Rates**

- A. Sewer rates are based on a flat fee.  
The following monthly rates are in effect:  
Inside City Limits: \$17/month/connection  
Outside City Limits: \$20/month/connection  
School: \$50/month/connection
- B. A meter deposit of \$100 is required for each water and sewer connection located outside city limits.

#### **Section X.2.4. Use of Public Sewers**

- A. No person(s) shall make connection of roof down spouts, foundation drainages, areaway drains, sump pump drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly into the public sanitary sewer unless such connection is approved by the city operations manager for purposes of disposal of polluted surface drainage. However, sump pumps can drain into the system from November to April.
- B. No person shall discharge or cause to be discharged any of the following water or waste into the public sewer system.
  - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
  - 2. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving water of the wastewater treatment system.

3. Any waters or waste having a pH lower than (5.5), or having any corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
4. Solid or other substances in quantities or of such size capable of causing obstruction to the flows in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, manure, hair and fleshings, entrails, disposable diapers, paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
5. The use of the sewer system of the city, for the disposal of crude oil, refined oil or any and all other petroleum products, shall be prohibited. Any user discovered to have discharged any toxic pollutants into the public sewer system, in addition to other penalties as provided by ordinance and law, shall be responsible for all costs associated with treating or otherwise disposing of such pollutants.
6. The disposal by any and all persons of garbage, cans, washers, filters and other foreign debris into the sanitary sewer system shall be prohibited.

## Chapter 3: Water

### Section X.3.1 Tapping Permit/Fee

There shall be a \$100 permit tapping fee charged for each new connection/tap into the city water main.

### Section X.3.2 Connection Procedure

- A. It shall be the responsibility of all persons needing water service from the City of Onida to contact the City Finance Office for a permit to tap the city water mains.
- B. All water service lines pipes must meet state specifications/standards. All water taps must be approved by the city. All water main taps must be a saddle properly secured to the water main continuing with a corporate stop. A PFC tapping saddle will be permitted when this type of saddle will be a proper service line time.
- C. The city will furnish a corporation stop of appropriate size, a saddle for the curb stop, a curb stop and curb box and the line from the corporation stop to the curb stop. All costs for trenching, remaining pipe, fill and back filling, compaction of the street and replacement of the asphalt surface shall be borne by the contractor or persons requesting said service.
- D. Persons or contractors doing the trenching and backfill shall compact the entire depth and length of the trench with suitable materials. The city

will do this work at a cost of \$150 per man hour to be levied against the contractor or the persons requesting the water service.

- E. Temporary meters for irrigation and installed yard hydrants will be permitted. A \$25 fee for hook-up and removal will be required. An extra meter charge will not be required.
- F. Repair work will be the responsibility of the property owner needing repair between the curb stop and the meter. Sand or gravel will be used for the bed for pipe and gravel on top of the trench on city property.
- G. In all instances for new and replacement water service pipe installed shall be not less than 6" in diameter.
- H. When a disconnection from the water system is made, the water service shall be closed to the satisfaction of the city operations manager. Closure shall be at the curb line on residential property and the property line of commercial property.

### **Section X.3.3 Rates**

- A. Monthly Water rates are based upon metered usage.  
Current rates are in effect for the following users:  
Inside city limits--\$20.50/month/connection for up to 3,000 gallons, plus \$3.00 per 1000 gallons up to 20,000 gallons, \$3.10 per 1000 gallons 20,001 thereafter.  
Outside city limits--\$23.50/month/connection for 3,000 gallons, plus \$3.00 per 1000 gallons up to 20,000 gallons, plus \$3.10 per 1000 gallons 20,001 thereafter.
- B. A meter deposit of \$50 is required for each new water and each new sewer connection outside city limits.

### **Section X.3.4 Other**

- A. All fire hydrants located in the City of Onida are for the purposes of extinguishing fires and are, hereby, declared to be public hydrants. It is unlawful for any person or persons, other than the city maintenance department or members of the Onida Volunteer Fire Department to draw water from the same or in any manner interfere with or injure any of said hydrants.
- B. The city may need to restrict water usage from time-to-time for repairs, water supply shortages, fires, etc. It is unlawful for any person, firm, or business to violate those restrictions.
- C. Utilities will not be initially turned on in any rental unit unless the \$100 meter deposit has been paid. In addition, all previous utility bills involving that rental unit shall have been paid in full either by the previous renter and/or the landlord.

## **Chapter 4: Garbage**

### **Section X.4.1 Definitions**

The following definitions shall define the terms used in this Chapter.

1. Bulky Items—large items such as white goods or furniture.
2. Commercial Solid Waste—solid waste generated by stores, offices, restaurants, warehouses, printing shops, service stations, and other nonmanufacturing, non household sources
3. Garbage—solid and semisolid animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving, and consuming of food or of material intended for us as food, and all offal (by-products and waste from animal processing), excluding useful by-products from all public and private establishments and from all residences.
4. Household Waste—solid waste derived from households, including single and multiple residences, but not waste from commercial activities that is generated, stored or present in a household.
5. Rubble—stone, brick, concrete, or similar organic material, excluding ash, waste tires and asbestos-containing waste materials.
6. White Goods—discarded refrigerators, ranges, washers, dryers, water heaters, and other similar domestic and commercial appliances.

**Section X.4.2 Garbage Services**

The owner, resident, operator or member of each individual household or residence, multi-family dwelling, business, association or corporation within the City of Onida shall utilize the collect service selected/provided by the city for the regular removal and disposal of all garbage, commercial solid waste and household waste.

**Section X.4.3 Garbage Fees**

The City of Onida shall collect the following fees per month from each household, business for the collection of garbage, commercial and household waste as defined in Section X.4.1. At its discretion the City Council may from time to time amend these rates by resolution.

Inside City Limits—Residence--\$15.00/month plus tax  
 Commercial--\$22.00/month plus tax

Small Dumpster--\$35.00 per month plus tax  
 Large Dumpster--\$53.00 per month plus tax

The above fees include access to the city restricted use/rubble site.

Outside City Limits within reasonable distances  
 Residence--\$17.55/month plus tax

Small Dumpster--\$41.00 per month plus tax  
 Large Dumpster--\$58.50 per month plus tax

**Section X.4.4 Restricted Use/Rubble Site**

- A. Each city resident/business paying a city garbage fee may remove their own rubble, bulky items and white goods to the city restricted use/rubble site provide rules and regulations as provided by the city are followed.
- B. Items accepted at the restricted use/rubble site at this time include: yard waste, bulky, white goods, and rubble as defined in this chapter.
- C. Rubble Site fees for those living outside city limits are \$50 per pick-up load and \$100 per truck load.

#### **Section X.4.5 Bagging and Tying of Garbage**

All garbage, commercial solid waste, and household waste shall be bagged, and household waste shall be bagged, tied, and placed in a suitable container at the curbside or alley side adjacent to the residence or business in accordance with the wishes of and at the times directed by City of Onida.

### **Chapter 5: Other Policies**

#### **Section X.5.1 Delinquent Bills**

All utility bills, including water, sewer, electric and garbage, are billed on a monthly basis.

- A. All utility bills are due and payable by the 10<sup>th</sup> of the month and are considered delinquent after the 15<sup>th</sup> of the month.
- B. Any utility bill not paid after the 15<sup>th</sup> of the month shall be surcharged a penalty of ten percent (10%) which shall be added to the bill.
- C. If the bill and penalty are not paid within seven (7) days or by the 22<sup>nd</sup> day of the month, the customer shall be notified by mail and/or a hand delivered letter, that if the delinquent account is not paid in full by the 29<sup>th</sup> of the month, the electric power will be disconnected. When disconnected, no utility shall be reconnected until the utility bill is paid in full and a new deposit of \$100 is paid. In addition a \$50 reconnection fee is required.

#### **Section X.5.2 Disconnection of Utility Services**

- A. Property owners and renters wishing to have utilities disconnected shall contact the city finance office at least two days in advance.
- B. When an occupant leaves the premises (owner or renter) all utilities must be made in full, in order to receive any utility deposits back. If utility bills are not paid, this amount shall be kept in payment of the bill.
- C. Should a tenant vacate a premise without paying the utility, the landlord shall be liable to the city for all charges or rates as they apply to electricity, water, sewer, and garbage fees. City services will not be restored to those premises until all charges or rates are paid in full.
- D. When a tenant or occupant leaves one premise to go to another premise, all utilities must be paid in full from the old premise before utilities will be connected at the new premise. All applicable deposit/connection fees apply to the new premise.

#### **Section X.5.3 National Plumbing Code**



The city follows the National Plumbing Code and should provision of this chapter conflict, the National Plumbing Code shall govern.

## **Title XI: Streets, Sidewalks, Curb, Gutter, and Driveways**

### **Chapter I: General**

#### **Section XI.1.1 Applicability**

All construction of sidewalks, curb and gutter and driveways that cross boulevards and affect curbing, shall be done only with the approval of the City. Grades and curb lines of reinstalled curbs and gutters shall be in accordance with adjacent installations. Installations in new development areas shall be in accordance with engineering specifications approved by the City.

#### **Section XI.1.2 Supervision of Construction**

The building and construction of all sidewalks, driveways and curbing within the limits of the streets and alleys of the City of Onida shall be done under direct supervision of the City and its duly appointed officers and agents.

#### **Section XI.1.3 Construction**

Permit Required. Before any sidewalk, driveway or curb and gutter is constructed, altered or removed within the limits of the City of Onida by any owner, contractor or person for the owner, said contractor or person must first secure a building permit from the city.

### **Chapter 2: Curb & Gutter**

Existing grades and curb lines as currently in place are hereby adopted as the official grades and curb lines of the city.

### **Chapter 3. Sidewalks**

#### **Section XI.3.1 Authority**

As authorized by SDCL 9-46-3, if deemed necessary, the City Council may construct, rebuild or repair any sidewalk. Owners of lots adjoining such sidewalk shall be notified that they must construct, rebuild or repair the sidewalk at their own expense within a time designated. Such notice shall be in writing and be served by return receipt mail. It shall set forth the character of the work and the time within which it is to be done. Such notice may be general as to the owners but shall be specific as to the description of such lots.

#### **Section XI.3.2 Specifications**

The following specifications shall be applied to all sidewalks constructed within the City of Onida:

- A. Material to be used in construction of all sidewalks shall be Portland Cement Concrete, and shall be four inches thick (5 1/2 bag mix).
- B. The base will be a minimum of 2 inches of compacted gravel.
- C. Sidewalks shall have a 1/4-inch per foot of width slope toward street so water will not stand.
- D. Sidewalks shall have expansion joints at a minimum of 50-foot intervals.
- E. The width of all sidewalks shall be not less than four feet or more than eight feet and shall conform to the width, grade and curb lines of the adjoining sidewalks, provided that the existing sidewalks are at least four feet wide. Any sidewalk not the same grade as adjoining property will be sloped in such a manner as not to cause a hazard to traffic.
- F. The corners of all sidewalks at intersections shall be constructed or reconstructed in such a manner so as to make the sidewalks accessible to the disabled.

#### **Section XI.3.3 Replacement of Asphalt**

Replacement of asphalt (blacktop) at intersections where ramps for the disabled are installed will be the responsibility of the City. Blacktop that is removed for the installation of private drives will be the responsibility of the owner.

#### **Section XI.3.4 Nonconformance**

Any proposed sidewalk not conforming to these specifications must be approved by the City Council prior to construction.

#### **Section XI.3.5 Unsafe Sidewalks Defined**

Unsafe sidewalks are defined as any sidewalk on which a person may trip or fall due to excessive cracks or excessive unevenness, or a sidewalk that has cracked or settled more than three quarters of an inch.

#### **Section XI.3.6 Removal of Existing Sidewalks**

Anyone desiring to remove a sidewalk and not replace it shall first make written request for permission to do so through the City Finance Officer. Said request will be considered by the City Council at its next meeting following filing of the request.

### **Chapter 4: Driveways**

#### **Section XI.4.1 Crossing Boulevards & Affecting Curbs**

When property owners desire to install a driveway that will cross the public right-of-way, inspection and approval by the city street personnel is required. With the approval of the city, a permit may be issued.

### **Chapter 5: Enforcement**

#### **Section XI.5.1 Enforcement**

In enforcing this Chapter, priority will be given on the following basis:

- A. A formal written complaint filed with the City Finance Officer; or
- B. When directed to take specific action by the City Council

#### **Section XI.5.2 Notice to Property Owners**

Upon determination that an unsafe sidewalk, noncompliant curb & gutter or driveway exists, the City Finance Officer shall deliver a written notice to property owners to be served by return receipt mail.

#### **Section XI.5.3 Compliance**

Property owners after receiving written notice of an unsafe sidewalk, noncompliant curb & gutter or driveway will have ninety (90) days in which to reach compliance unless extended by the City. If not accomplished within the time described, the City Council by resolution may cause the same to be done. The costs thereof shall be assessed as provided for by SDCL Chapters 9-45 & 9-46, as appropriate.

#### **Section XI.5.4 Letting of Bids**

Once the city has let bids and entered into a contract for repair as provided for above, thereafter the property owners do not have the option to making repairs at their own expense, but shall permit the City to proceed to do so.

### **Chapter 6: Use of Streets**

#### **Section XI.6.1 Obstructions on Streets**

No person shall place, leave or keep on any public street, road, alley, sidewalk, or other public ground in this city, any article, substance or material which may obstruct the free use of the street, road, alley, sidewalk or public ground, except as hereinafter provided.

#### **Section XI.6.2 Materials in Streets, Permits**

The City Council is authorized to grant temporary permission in writing to any person to deposit and keep lumber, stone, brick or other materials for building, on any public sidewalk, street, road or alley adjacent to the building to be erected or repaired. Such permission shall not excuse the obstruction or occupancy with such materials of more than one-third of the width of any main traveled portion of any street or road.

#### **Section XI.6.3 Cleaning Streets or the Sidewalk of Rubbish**

Every person/business granted permission, as provided in Section XI.6.2, to place and keep building material in the street, road or alley, shall cause all such material and the rubbish resulting there from, to be removed from such sidewalk, street, road or alley at the expiration of the permit. The City Council may extend the time at their discretion. Any person keeping any building material on such sidewalk or in such street, road or alley under a permit from the City Council, shall keep one or more lighted lanterns or flares so placed that such material may be easily seen by persons/traffic passing along such sidewalk, street, road or alley at night.

**Section XI.6.4 Excavation near Street**

It shall be unlawful for any person, owner or occupant of any lot or parcel of land within the City of Onida, to make or cause to be made any excavation on said lot or parcel of land, except the same be securely guarded so as to prevent the injury or any person or persons or animals passing upon or along said sidewalks, street, alleys or public grounds or traveled path or roadway.

**Section XI.6.5 Garbage in Streets**

It shall be unlawful for any person, firm or corporation to throw, or deposit any ashes, offal dirt, garbage, decaying vegetables, fish, meat, manure, filthy water, slops or any other offensive or putrid matter or thing into or upon any street, avenue, lane, alley or public ground within the corporate limits of the City of Onida.

**Section XI.6.6 Animals and Vehicles on Sidewalks**

No person shall ride, drive or lead any animal upon any public sidewalk in the City of Onida other than dogs, cats or other pets on a leash; or drive or operate, or cause to be driven or operated, any motorized vehicle upon any sidewalk in said City of Onida, except that the same may be driven across any sidewalk in entering or leaving the premises of any person/business if there shall be constructed a drive-way across said sidewalk at said premises.

**Chapter 7: Moving Building on Streets****Section XI.7.1 Permission to Move Building on Streets**

It shall be unlawful for anyone to move any building into, along or across any public street, alley or highway within the City of Onida without having obtained permission to do so in compliance with the provisions of this chapter and obtaining a moving permit. Further any building permit required shall also be obtained.

**Section XI.7.2 Application**

Anyone desiring to move any building into, along or across any public street, alley or highway within the City, shall first apply in writing for permission so to do, to the office of City Finance Officer, fully stating the name of the applicant, the name of the owner of the building, the description of the lot on which such building is standing and the lot to which it is to be moved, the street along which it is proposed to move such building, the time when such removal will take place and the size of the building; which application shall be accompanied with the sum of at least Five Hundred Dollars (\$500.00) to be deposited with the City Finance Officer as a pledge or guarantee fund to protect the City against loss or damage to crossings, sidewalks, or other public or private property, or expense for protecting such property against the injuries that may be caused by the removal of such building; said deposit or balance thereof, after deducting the amount of damages or expenses, if any, caused by such removal, shall be returned to

the person depositing same upon an official of the condition of the streets, sidewalks, crossings, or other public or private property after such removal, made by the City Operations Manager.

#### **Section XI.7.3 Guarantee Fund**

Whenever the City Operations Manager and Mayor/Street Supervisor shall decide from any examination of the application and from such other information as he may obtain, that the sum of Five hundred Dollars (\$500.00) is not sufficient as a guarantee fund for ample protection of the city against the probable damages and expenses that may caused by the removal of such building, the city shall require the deposit of a larger sum than Five Hundred Dollars (\$500.00). A surety bond may be filed in place of any amount requested by the city in excess of \$500.00.

#### **Section XI.7.4 Permit Contents**

- A. The approved applicant shall receive a written permit for the removal of such building indicating along or across which streets, highways or alleys movement can occur and the time allocated before such work shall be completed said removal to be finished prior to the time stated in such permit.
- B. No moving permit granted by the city shall authorize the holder thereof to break, injure, or move any telephone, electric, light, power or cable TV wire or pole, or to cut, trim or otherwise interfere with any property without the written permission of the owner or owners thereof.

#### **Section XI.7.5 Refunding Guarantee Fund**

Before refunding said guarantee fund, surety bond, any part thereof, it shall be the duty of the city to examine the report of the local Law Enforcement Officer and pay out of said fund or set aside for such purposes the amount claimed as ascertained as the damages for injuries to any public or private property, including the expenses of protection to sidewalk, streets, curb and gutter, electric, telegraph and telephone wire as aforesaid, caused or occasioned by the removal of such building as aforesaid.

### **Chapter 8: Excavation in Public Places**

#### **Section XI.8.1 Permit Required**

No person shall make or cause to be made any excavation in, under or through any street, parking, sidewalk, alley, or public ground, or remove any earth, soil, paving, gravel, or material there from without having first obtained a permit therefore as hereinafter provided.

#### **Section XI.8.2 Application and Bonds**

Application for such permit shall be made to the City Finance Officer, who shall secure the approval of the City Council before issuing any such permit. Such application shall be accompanied by a fee of Ten dollars (\$10.00), which amount shall be considered compensation to the City for the granting of such permit and the necessary investigation prior thereto. In addition to

the hereinbefore described fee, the applicant shall deposit with the City Finance Officer not less than Five Hundred Dollars (\$500.00) or such larger sum as deemed necessary by the city to insure the replacement and refilling of any such excavation. In lieu of such deposit, a bond for the same purpose in the amount of to be determined by the City Council may be given covering all excavations for the year for which such bond is given. Before any such permit is issued, the person requiring the same shall state in the application therefore where such excavation is to be made, the extent therefore, in front of what lot or lots, for what purpose said excavation is to be made, and whether or not such person has a bond on file with the City Finance Officer for making such excavation. If such applicant has not filed such bond, then before a permit shall be issued, such applicant shall furnish a bond or make the deposit as above provided with the City Finance Officer as a guarantee for the proper refilling of and guarding of such trenches and excavations while in the course of excavating or refilling and the maintenance of the same in good condition for one year thereafter.

#### **Section XI.8.3 Deposit Forfeited**

If at any time within one year after this issuance of the permit referred to in this chapter the City Council shall find that the work for which the bond deposit was made does not stand a satisfactory test or has not been properly refilled, the City Finance Officer shall notify the depositor in writing via certified mail that the work must be put in satisfactory condition within three days, and if the depositor fails to comply with the terms of said notice, then the city shall have authority to incur expenses thereof to the sum deposited to correct deficiencies. The City Finance Officer shall upon order of the City Council return the balance unexpended at the expiration of one year from date of such permit to the depositor. Any costs the city incurs making the necessary repairs not covered by the deposit or bond shall be billed to the permittee.

#### **Section XI.8.4. Excavations Near Street**

It shall be unlawful for any person, owner or occupant of any lot to make or cause to be made any excavation on said lot adjacent to any street, alley, public ground, or traveled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

## **Title XII: Traffic Code**

### **Chapter1: Definitions**

Whenever in this chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section.

- A. Alley-shall mean every highway, roadway, street or alley set apart for public travel except for footpaths.

- B. ATV-shall mean any all terrain motorized vehicle of between 4 to 6 wheels, which normally has one seat and is fitted with large wheel low pressure tires.
- C. Bicycle-shall mean every vehicle propelled solely by human power upon which any person may ride, except scooters and similar devices.
- D. Boulevard-shall mean the area of right of way between curb and adjacent lateral property line.
- E. Business District-shall mean that area designated Central Commercial District on the Official Zoning Map of Onida.
- F. City-shall mean the City of Onida.
- G. Crosswalk-shall mean any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway.
- H. Department - shall mean the law enforcement agency of the City of Onida or the Sully County Sheriff's Department.
- I. Driver - shall mean every person who drives, operates or is in actual physical control of a vehicle.
- J. Driveway - shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- K. Equipment or Devices – include, but are not limited to, seat belts and attachments; safety harnesses and attachments; child restraint and seating devices and attachments; flares, headlights, auxiliary driving lamps, rear lamps, spotlights, identification lamps, clearance lamps, signal lamps, and all other lighting devices; brake fluid, brake hoses, brake linings, and other brake systems and equipment; eye protective devices and motorcycle helmets for motorcycle operators; safety glass or safety glazing in all partitions, doors, windows, windshields, or wind deflectors; windshield wipers, rear vision mirrors; horns; trailer hitches; driver's license; and license plates.
- L. Highway - shall mean every highway, roadway, street or alley set apart for public travel except for footpaths/sidewalks.
- M. Intersection- shall mean 1) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadway of two highways which join one another at or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; 2) where a highway includes two roadways thirty (30) feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; 3) the junction of an alley with a street or highway shall not constitute an intersection.
- N. Jacobs Brake - Dynamic braking device mean a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

- O. Law Enforcement Officer or Law Enforcement Agency-shall mean every officer of the Sully County Sheriff's Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- P. Manual on Uniform Traffic Control Devices-shall mean that publication by the U.S. Department of Transportation governing traffic control devices.
- Q. Moped - shall mean a motor driven cycle equipped with two or three wheels. If a combustion engine is used, the maximum piston or rotor displacement shall be fifty cubic centimeters regardless of the number of chambers in such power source. The power source shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged.
- R. Motorcycle - shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels that contact with the ground, but excluding a tractor.
- S. Motor Vehicle - shall mean every vehicle, as herein defined, which is self-propelled.
- T. Occupant- shall mean person who lives or resides on any property.
- U. Operator - shall mean and include every individual who is in actual physical control of a vehicle as the owner thereof or as the agent, employee or permittee of the owner.
- V. Park or Parking - shall mean the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- W. Pedestrian - shall mean any person afoot.
- X. Person- shall mean every natural person, firm, partnership, association, or corporation.
- Y. Private Property - shall mean and include any and all real property or land within the City of Onida that has not been opened or dedicated for public use or as a public thoroughfare.
- Z. Residential District- shall mean the territory contiguous to and including a highway. Any area so zoned according to the city zoning map/ordinance.
  - a. Right-of-way - shall mean the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian.
  - b. Roadway - shall mean that portion of the street or highway between the regularly established curb lines or that part devoted to vehicular traffic.
  - c. Sidewalk - shall mean that portion of a street between the curb lines, or the lateral lines of the roadway, and the adjacent property lines, intended for use by pedestrians.
  - d. Snowmobile - shall mean any engine-driven vehicle of a type which utilizes sled type runners, wheels, or skis with an endless belt tread or similar means of contact with the surface upon which it is operated.



- e. State - shall mean the State of South Dakota.
- f. Stop or Stopping - when prohibited, shall mean any halting, even momentarily of a vehicle, whether occupied or not, 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.
- g. Street - shall mean every highway, roadway, street or alley set apart for public travel except footpaths.
- h. Traffic - shall mean pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any street or highway for the purpose of travel.
- i. Traffic Control Devices - shall mean all signs, signals, markings, and devices not inconsistent with this chapter, placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.
- j. Trailer - shall mean every vehicle with or without motive power designated for carrying persons or property wholly on its own structure and being drawn by a motor vehicle.
- k. Vehicle - shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, excepting devices used exclusively upon stationary rails or tracks.

## **Chapter 2: General**

### **Section XII.2.1. Traffic Control Devices**

All signs and signals required hereunder for the particular purpose shall be uniform as to the type and location throughout the City, so far as practicable. All traffic control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices.

### **Section XII.2.2. Powers and Duties of the Law Enforcement Agency**

- A. It shall be the duty of law enforcement of this city to enforce all city ordinances. Officers are hereby authorized to direct all traffic personally or by means of visible or audible signals in conformance with the provisions of this chapter. In the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, law enforcement officers or fire department personnel may direct traffic, as conditions may require, notwithstanding the provisions of this chapter.
- B. All tickets inside city limits issued by the Law Enforcement Agency on this chapter and under any other city section of the ordinance shall be written on city ticket forms.

### **Section XII.2.3 Applications of this Chapter to Pushcarts, Bicycles, Motorcycles, Mopeds, ATVs, Golf Carts and Animals - Exceptions**

Any person propelling a pushcart, bicycle, moped, motorcycle, animal, animal-drawn vehicle or any conveyance in the city shall be subject to the provisions of this chapter applicable to the operator of the vehicle, except

those provisions with reference to equipment of vehicles and which by their nature can have no application.

**Section XII.2.4 Duty of Law Enforcement Agency to Investigate Accidents**

Immediately upon the report of any accident, officers shall have the duty of investigating such accident in accordance with the policy set by law enforcement. Any report filed shall be kept on file and available for inspection by the parties or their duly authorized representatives.

**Section XII.2.5 Law Enforcement Authorized to Remove Vehicles in Violation of This Chapter - Payment of Costs of Removal**

Any vehicle parked or allowed to remain in violation of any of the provisions of this chapter may be removed or caused to be removed by law enforcement of the city and towed to an area designated by the law enforcement agency. Any towing and storage charges resulting from removal of a vehicle shall be paid by the owner or person parking such vehicle in addition to the fine and other penalties prescribed.

**Section XII.2.6 Traffic Control Devices - No Violation if Not in Place**

No provisions of this chapter which indicates signs are required shall be enforceable against an alleged violator, if, at the time and place of the alleged violation, the sign or signal herein required is not in proper position, sufficiently legible, or in proper working order to be seen by an ordinarily observant person.

**Section XII.2.7 Failure to Comply with Lawful Order or Warning**

It shall be unlawful for any person to refuse or fail to comply with any lawful order or direction of a law enforcement officer.

**Section XII.2.8 Unlawful to Display or Attach Anything Resembling or Imitating Official Signal or Device – Removal as Nuisance.**

- A. It shall be unlawful for any person to place or maintain or to display upon or in view of any street any official sign, signal or device which purports to be or is an imitation of or resembles an official traffic sign or signal or which attempts to direct the movement of traffic.
- B. It shall be unlawful for any person to place, attach to, or display upon an official sign or signal any sign, signal or device. Every such prohibited sign, signal or device is hereby declared to be a public nuisance and the Law Enforcement Agency is hereby empowered to remove the same or cause it to be removed without notice.

**Section XII.2.9 View Obstruction at Intersection or Right-of-Way**

It shall be unlawful for the owner or occupant of any property to allow, maintain or fail to remove any wall, fence, foliage, or objects which obstructs the view at any intersection of streets or alleys or to place or allow any sign or object on the boulevard or right-of-way adjacent to his/her property which obstructs the view from any alley, driveway or roadway.

## Chapter 3: Vehicle Operation

### Section XII.3.1 Jurisdiction - Speed Limits

The City hereby adopts the current speed limits as heretofore imposed by the State of South Dakota and Sully County on their roads and highways located within one mile outside of the City's boundaries.

### Section XII.3.2 Exhibition Driving

Any person who drives a vehicle 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 causes the vehicle to unnecessarily turn abruptly or sway shall be guilty of exhibition driving.

### Section XII.3.3 Speed Limits and Operator's Duties

On any street, the speed limit shall be twenty miles an hour, unless otherwise posted. It shall be unlawful to exceed the twenty mile per hour limit or any posted limit, or to exceed any of the following limitations:

- A. Ten miles an hour in all alleys unless otherwise posted.
- B. Fifteen miles an hour in any public park unless otherwise posted.
- C. Fifteen miles an hour when passing a school playground when school is in session.

### Section XII.3.4 Speed Over Reasonable and Prudent

It shall be unlawful for any person to operate a vehicle on any street or highway at a speed that is greater than reasonable and prudent having due regard to the traffic, surface of the street, without regard to the posted speed limit or any other conditions existing, or at speeds in excess of those fixed in this chapter.

### Section XII.3.5 Unlawful to Enter Street Without Stopping

The operator of any vehicle emerging from an alley, driveway, private drive or any entrance to the roadway shall stop such vehicle prior to driving onto a sidewalk area or the roadway.

### Section XII.3.6 Stop Sign Violation

The operator of any vehicle traversing a street upon which a stop sign has been erected, in accordance with the provisions of this chapter, shall bring such vehicle to a full stop at a place within fifteen feet of the nearest line of the intersection of said streets or street alley. After having stopped, the operator of any vehicle shall yield right of way to any vehicle which has entered or is approaching the intersection from another street and shall not proceed into the intersection until certain that such intersecting street is free from oncoming traffic which may affect safe passage.

### Section XII.3.7 Illegal U-turn/Backing Around Corners

- A. A driver of any vehicle shall not make a U-turn as follow:

1. At an intersection where warned by an official traffic control sign displaying the words "No U-turn."
  2. In the area mid-block between two intersections.
  3. To park on the opposite side of the street.
- B. A driver of any vehicle shall not:
1. Back a vehicle around a corner at an intersection.
  2. Back a vehicle into an intersection of a public street.

#### **Section VII.3.8 Opening and Closing Vehicle Doors in Traffic**

No person shall open any door on a motor vehicle unless and until it is reasonably safe to do so and can be done without interfering with the movement of traffic. Further, no person shall leave a door open on a side of a vehicle available to moving traffic for a period of time longer than is necessary to load and unload passengers.

#### **Section XII.3.9 Unlawful Avoidance of Intersection**

It shall be unlawful for any person to operate any vehicle upon any sidewalk, driveway, filling station or any other commercial driveway or other similar surface located at the corner of any intersection protected by a traffic sign, for the purpose of evading the regulations governing the movement of any vehicle at an intersection.

#### **Section XII.3.10 Unlawful to Operate Vehicle on Sidewalk**

The driver of a motorized vehicle shall not drive on any sidewalk area, except at a permanent or temporary driveway.

#### **Section XII.3.11 Unlawful to Operate Vehicle in Public Park, Recreation Area or School Ground**

It shall be unlawful to operate any motorized vehicle in any park, recreation area or school ground except on the normally traveled roadways or in specifically designated areas.

#### **Section XII.3.12. Operation of Vehicle While Under Influence of Drugs/Alcohol**

In accordance with state laws no person shall operate a vehicle while under the influence of alcoholic beverages and/or illegal drugs. State laws and regulations shall be enforced.

#### **Section XII.3.13. Unlawful to Allow Unreasonable Noise from Vehicle**

It shall be unlawful for any person to cause or allow any loud, unreasonable noise to emit from a vehicle under his/her control that annoys, disturbs or endangers the peace or safety of others. Unreasonable noises include but shall not be limited to the following:

- A. The sounding of any horn or signaling device of any automobile, motorcycle, truck or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling devices of any unreasonable, loud, or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or

other difficulty or failure; and the use of any such signaling device where traffic is held up.

- B. The use or operation of any radio, phonograph or other sound producing machine, in such a manner as to disturb the peace of any other person on or adjacent to the roadway upon which the vehicle is being operated, or in such a manner as to dangerously distract the operator of said vehicle or any other vehicle.
- C. The operation of any vehicle or vehicle engine in a manner that produces unnecessary engine or exhaust noise.
- D. Operating any motor vehicle with a dynamic braking device (Jacobs Brakes) engaged except for the aversion of imminent danger shall be prohibited
- E. Any public emergency response vehicle equipped with a dynamic braking device will be allowed to use such device during a response to an emergency situation.

#### **Section XII.3.14 Uncovered or Unsecured Load Violation**

It shall be unlawful to operate a vehicle in such a manner as to cause spillage of refuse or solid wastes on the streets or road.

#### **Section XII.3.15 Parades and Processions**

- A. All funeral processions, parades, and similar events shall be conducted under the supervision of the law enforcement agency. At least 24 hours' notice shall be given law enforcement personnel prior to any parade or procession.
- B. No driver of any vehicle shall drive through or otherwise interfere with any funeral or other authorized procession or parade on any of the streets. It shall be the duty of the driver of any vehicle to stop when reaching a street on which such a procession is passing and wait until the procession has entirely passed or otherwise been given a signal to proceed by a law enforcement officer.

#### **Section XII.3.16 Trucks-Operating on Streets**

It shall be unlawful for any person to operate a truck, semi-truck, trailer, tractor or other piece of machinery upon the streets of the City, except for loading and unloading.

### **Chapter 4: Pedestrian Rights and Duties**

#### **Section XII.4.1 Unlawful Solicitation of Rides**

It shall be unlawful for any person to stand or walk in the roadway for the purpose of soliciting a ride from the operator of any vehicle.

#### **Section XII.4.2. Pedestrians Yield to Authorized Emergency Vehicle(s)**

Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals as required by state law, every pedestrian shall yield right of way to the authorized emergency vehicle.

**Section XII.4.3 Pedestrian Right-of-Way**

- A. The driver of any vehicle operating on or crossing a sidewalk shall yield the right of way to any pedestrian.
- B. A pedestrian traveling on the sidewalk shall have right of way over any other traffic on the sidewalk.

**Chapter 5: Bicycles****Section XII.5.1 Applicability of Traffic Laws**

Every person riding or operating a bicycle upon a roadway shall be granted all the rights and shall be subject:

- A. To all the duties applicable to the driver of a motor vehicle by the laws of the State of South Dakota, and
- B. To the provisions of this chapter declaring rules of the road applicable to the driver of a vehicle except as to those provisions of laws and ordinances which by their nature have no application.

**Section XII.5.2. Regulations for Operation of Bicycles**

It shall be unlawful for any person to operate a bicycle in any of the following described manners:

- A. At a speed greater than is reasonable and prudent under conditions then existing.
- B. Wherever the City has provided sidewalks and bituminous ramps adjacent to streets for the accommodation of bicycle riders, such sidewalks and ramps shall be regarded as usable paths for bicycles.
- C. The operators of a bicycle shall stop prior to emerging from any alley, public or private driveway or building upon any street or sidewalk or sidewalk area and shall yield right of way to all vehicles and pedestrians approaching upon any street, highway, sidewalk or sidewalk area.
- D. Attaching the bicycle or the rider in any manner to any other vehicle.
- E. Riding more than two (2) abreast (side by side).
- F. Before turning or changing the direction of any bicycle upon any street highway, parkway or public place, it shall be the duty of the bicycle rider to give a proper hand signal by the extension of the left hand to indicate the direction of the intended turn.

**Section XII.5.3 Obedience to Traffic Devices and Signs**

- A. Any person operating a bicycle shall obey the instructions of traffic control devices unless otherwise directed by a police officer.
- B. On any street or intersection where U-turns or other turns are prohibited and signs are erected and in place so indicating, no person operating a bicycle shall disobey the direction of any such sign. Except that where such person dismounts from the bicycle to make such turn, the person shall then obey the regulations applicable to pedestrians.

**Section XII.5.4. Manner of Riding**

- A. Any person operating a bicycle shall not ride other than upon or astride the permanent and regular seats attached thereto, nor carry any other person upon such bicycle other than on a firmly attached and regular seat.
- B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except for a child stroller designed to be attached to the bicycle or a baby/child seat attached to the bicycle. In that case, the seat must be equipped with a harness to hold the child securely to the seat and protection must be provided to prevent the child's feet hitting the spokes of the wheels.

#### **Section XII.5.5 Equipment Required**

- A. Every bicycle shall be equipped with a brake adequate to control the movement and to stop the bicycle whenever necessary.
- B. Every bicycle when used between thirty (30) minutes after sunset and thirty (30) minutes before sunrise shall be equipped with a light and reflectors of a type approved by the local law enforcement. A white light must be visible from a distance of at least three hundred - (300) feet to the front. An amber reflector shall be located on the frame or the front wheel so that it is visible from fifty - (50) to three - (300) feet on each side of the bicycle when directly in front of the lawful upper beams of headlamps on a motor vehicle. A red reflector facing the rear must be visible at fifty - (50) to two hundred - (200) feet when directly in front of the lawful upper beams of the headlamps on a motor vehicle.

#### **Section XII.5.6 Riding on Sidewalks**

Whenever any person is riding upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal or call before overtaking and passing such pedestrian.

#### **Section XII.5.7 Parking and Parking Spaces**

No person shall park a bicycle on the main traveled portion of the sidewalk or in such a manner as to constitute a hazard to pedestrians, traffic and/or property.

### **Chapter 6: Parking**

#### **Section XII.6.1 Overtime Parking**

It shall be unlawful for any person to park any vehicle on a street, alley or public place for a longer period than twenty-four (24) hours, except that currently licensed motor vehicles may be parked for not more than seventy-two (72) hours. After seventy-two (72) hours, notice shall be given to remove the vehicle within twenty-four (24) hours. If the vehicle is not removed, the city may cause the vehicle to be removed at the owner's expense.

#### **Section XII.6.2. Parking -Snow Removal**

There shall be no parking between the hours of 2:00 a.m. to 8:00 a.m. on the streets named below when there has been an accumulation of two (2) inches or more of snow to facilitate snow removal operations. Said streets shall be posted accordingly. Violators will be ticketed and fined.

Main Street from Dogwood Avenue to 11<sup>th</sup> Street

Main Street from Ash Avenue to Dogwood Avenue

Birch Avenue from 6<sup>th</sup> Street to 8<sup>th</sup> Street

8<sup>th</sup> Street from Ash Avenue to Ginseng Avenue

### **Section XII.6.3 Truck Parking**

- A. Parking of commercial vehicles and semi-trailers and tractors is permitted when loading and unloading only.
- B. It is unlawful to park a semi-trailer, whether or not attached to a truck-tractor, upon any city street, City-owned parking lot or other public property. It shall also be unlawful to park such trailer on any private property within any area zoned as a residential district, except for the purpose of loading or unloading the same.

### **Section XII.6.4 Places Designated as Unlawful for Parking, Standing, or Stopping - Exceptions**

It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle on any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or traffic control sign or signal:

- A. On a crosswalk;
- B. Outside the first line of cars parked next to the curb;
- C. Within 25 feet of the intersection or curb lines;
- D. Within 15 feet of the driveway entrance to the fire station;
- E. Within 15 feet of a fire hydrant;
- F. In front of a private driveway;
- G. On a sidewalk;
- H. Alongside or opposite any street elevation or obstruction when such stopping, standing or parking would obstruct traffic.

### **Section XII.6.5 Off-street Parking/Street Parking**

- A. No off-street parking of any motor vehicles, recreational vehicles, watercraft or trailers shall be permitted in the front yard of any residence except as described below. This pertains to licensed vehicles.
  - 1. Upon a driveway providing direct access to the garage or rear yard.
  - 2. Upon any other driveway provided that it is no wider than twenty-two (22) feet.
  - 3. Upon the yard area between the driveway and the nearest side lot line.
- B. No recreational vehicle (camper, boat, motor home) or utility trailer can be parked on the city street from November 1 through the end of April.



## Chapter 7: Snowmobiles

### Section XII.7.1 Registration

No snowmobile shall be operated within the City of Onida unless registered in accordance with the provisions of the laws of the State of South Dakota and identification numbers must be displayed as required thereby.

### Section XII.7.2 Authorized Operation

A. No person may operate a snowmobile on a city street:

1. At a rate of speed greater than is reasonable and proper having due regard for conditions then existing and in no event in excess of twenty (20) miles per hour.
2. While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.
3. Except while proceeding to and returning from the city limits by the most direct route from his home or place where said snowmobile is garaged.
4. In any cemetery.
5. On private property without consent of the property owner or his agent.

B. Any person operating a snowmobile on a City Street must:

1. Come to a complete stop at all traffic controlled intersections.
2. Travel as close to the right edge of the plowed area of the street as practical.
3. Obey all traffic signals, signs and devices.
4. Yield the right-of-way to all other traffic and pedestrians.

### Section XII.7.3 Crossing Streets

No snowmobile shall be operated to cross any street except at a street intersection of a street.

### Section XII.7.4 Careless Operation

No person shall operate a snowmobile in the City of Onida in a careless or negligent manner likely to endanger any person or property.

### Section XII.7.5 Sidewalk Operation Prohibited

No person shall operate a snowmobile upon any public sidewalk in the City of Onida.

### Section XII.7.6 Towing

No person operating a snowmobile shall tow any person or object behind such snowmobile except when such person or object is situated upon a conveyance that is attached to such snowmobile by means of rigid hitch or tow bar.

### Section XII.7.7 Equipment

No snowmobile shall be operated in the City of Onida:

- A. Unless it has at least one (1) headlight and one (1) taillight turned on at all times during operation.
- B. Unless it has adequate brakes capable of producing deceleration of fourteen (14) feet a second on level ground at twenty (20) miles an hour.
- C. Unless it is equipped with a muffler in good working order in constant operation to prevent excessive or unusual noise.

#### **Section XII.7.8 Notice of Accident**

The operator of a snowmobile involved in an accident resulting in injuries to or death of any person or property damage in an estimated amount of One Hundred Dollars (\$100.00) or more, or some person acting for him, or the owner of the snowmobile having knowledge of the accident shall immediately by the quickest means of communication notify the law enforcement of the Sheriff's Office of Sully County.

#### **Section XI.7.9 Damage to Property - Owner's Liability**

- A. It is presumed that any snowmobile operated within the City of Onida is operated with the consent of the owner.
- B. The owner of the snowmobile will be held jointly and severally liable with the driver thereof for damages arising out of the negligent or improper operation of his/her snowmobile.

#### **Section XII.7.10 Violation Misdemeanor**

Any person who violates the provisions of this ordinance is guilty of a misdemeanor and is punishable according to the general provision of this ordinance, unless otherwise noted.

## **Title XIII: Tree Ordinance**

### **Chapter 1: Definitions**

Whenever in this title the following terms are used, they shall have the meaning as described below.

- A. Street Trees - Trees, shrubs, bushes and all other woody vegetation on boulevards which would be land lying between property lines on either side of all streets, avenues, or ways within the City.
- B. Park Trees - Trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.
- C. Private Trees - All trees and other woody vegetation on private lots and residences within the City.
- D. Public Trees - All trees now or hereafter growing on any street or any public area where otherwise indicated.
- E. Small Trees - Trees less than twenty feet (20') tall at maturity.
- F. Medium Trees - Trees between twenty to forty feet (20' - 40') tall at maturity.
- G. Large Trees - Trees larger than forty feet (40') tall at maturity.
- H. Pests - An insect or disease agent that attacks a tree or woody vegetation.

- I. Parks - Public parks which may or may not have individual names.
- J. Property Owner - The person owning such property as shown by the records on file at the Sully County Register of Deeds.
- K. Trees and Shrubs - All woody vegetation now or hereafter growing on any public or private property.
- L. Plants- All “non-woody” vegetation now or hereafter growing on any public or private property.
- M. City - The elected and/or designated official, authorized agent, or employees of the City of Onida lying within the County of Sully, State of South Dakota assigned to carry out the enforcement of this ordinance.

## **Chapter 2: Intent**

The intent of this ordinance is to protect and preserve the trees, plants, and shrubs of Onida, thereby enhancing the aesthetic and property value, safety and general welfare of the citizens of Onida.

## **Chapter 3: Planting/Care/Removal**

### **Section XIII.3.1 Responsibility**

The City is herein responsible for tree planting in all City parks and establishing control of street tree planting on boulevards. Private planting of trees is not subject to City control but the City encourages desirable species and planting practices.

### **Section XIII.3.2 Spacing**

No street trees may be planted closer together than the following: small trees, twenty (20’); medium trees thirty-five (35’); except in special plantings designed or approved by the City.

### **Section XIII.3.3 Distance from Curb to Sidewalks**

No trees shall be planted where the distance between the curb and sidewalk is less than four feet (4’) (or where a curb or sidewalk would be). No trees may be planted closer to any curb or sidewalk than the following: small trees, two feet (2’) and medium trees, three feet (3’).

### **Section XIII.3.4 Distance from Street Corners and Fireplugs**

No street tree shall be planted closer than twenty feet (20’) of any property corner adjacent to an intersection. No street trees shall be planted closer than ten (10’) feet of any fire hydrant.

### **Section XIII.3.5 Utilities**

No street trees, except small trees may be planted under or within ten feet (10’) of overhead utility wires. No trees shall be planted over or within five feet (5’) of any underground water, sewer, electrical or other service line.

### **Section XIII.3.6 Tree Care**

- A. The City will herein be responsible for all tree care aspects of the park trees, and will accomplish insect and disease control for street trees

when determined by the City that a pest is a serious threat to other trees and for which there is an adequate control measure.

- B. The landowner will be responsible for pest control of private trees and trimming of street and private trees subject to City control when such pest control or trimming is deemed necessary to prevent hazards to life and property.
- C. Landowners will be responsible for all other types of tree care. The City will encourage proper tree care, but will not require any additional tree maintenance other than those mentioned in the above paragraph.
- D. Every owner of any tree overhanging any street or right-of-way within the City shall be trimmed to a minimum of fourteen feet (14') above the surface of street and eight (8') feet above sidewalks.

#### **Section XIII.3.7 Tree Removal**

- A. Tree removal will be the responsibility of the City for park and street trees. The City shall have the right to cause the removal of any dead or diseased private trees on private property within the City. The landowner will be responsible for removing private trees that constitute a hazard, to life and property, or harbor insects or disease, which constitute a potential threat to other trees within the City. The City will notify in writing or in person the owners of such trees.
- B. Dead trees shall be removed. Trees will also be removed if they cannot be returned to an acceptable condition after treatment for disease or sustaining storm damage as determined by the City or any of its authorized agents. Trees harboring contagious pests for which there is not established control shall be removed.
- C. The City or authority acting will make determination of a pest problem. If the pest cannot be determined at the site with reasonable certainty by the City or other authority, sample will be taken for diagnosis to determine the pest.
- D. Confirmed arrangements for removal shall be made within thirty (30) days from date of notification for trees found to be harboring a contagious disease and thirty (30) days for a dead or substantially dead tree from the time declaring the tree a hazard or dead.
- E. Wood from dead, substantially dead or infected trees may be used as firewood as long as that wood does not harbor a contagious pest or can be treated to prevent harboring contagious pests.

#### **Section XIII.3.8 Abatement**

- A. The failure of owners to comply with planting, spacing minimum distance, utilities, trimming and tree removal provisions of this ordinance shall constitute a nuisance and the City shall have the authority to abate the nuisance which may include removal of it.
- B. The City shall keep a record of the costs of abatements done under this ordinance and shall report monthly to the Finance Officer all work done for which billings and assessments are to be made. The report shall state

and certify the description of the land, lots, parcels involved and the amount chargeable to each.

- C. The payment of monies to the City for the abatement of nuisances from private property shall be handled in accordance with the provisions contained in Title VI - Nuisances.

#### **Section XIII.3.9 Interference with City**

It shall be unlawful for any person to prevent, delay or interfere with the City while engaging in the inspection or removal of any street trees, parks trees or private trees, as authorized in this ordinance.

#### **Section XIII.3.10 Appeal**

Any individual who receives an order or is denied permission to plant, care for, or remove a tree shall have the right to appeal within seven days to the City Council.

## **Title XIV: Onida Municipal Airport**

### **Chapter 1: Definitions**

The following words shall have the meaning described below in this title.

- A. *Board* - shall mean the Airport Board appointed by the Mayor of the City of Onida with the consent of the City Council.
- B. *City* - shall mean the City of Onida, Sully County, South Dakota.
- C. *Council* - shall mean the City Council for the City of Onida.
- D. *Manager* - shall mean the Airport Manager.
- E. *Tenant* - shall mean any customer leasing or renting hangar space from the City of Onida or any customer who has built a hangar or hangars on Onida Municipal Airport property.

### **Chapter 2: General**

#### **Section XIV.2.1 Purpose**

The purpose of this Chapter is to provide guidelines for the operation, maintenance and general upkeep of the Onida Municipal Airport.

#### **Section XIV.2.2 Description**

The City airport is located on property described as:  
NE ¼, S 9, T 114N, R 77W, Sully County  
Lot 1 and Lot H2, SE 1/4, S 9, T 114N, R 77W, Sully County  
Airport Lot 2, NW ¼, S 10, T 114N, R 77W, Sully County

#### **Section XIV.2.3 Airport Manager**

The Mayor with the approval of the City Council shall appoint the Airport Manager.

**Section XIV.2.4 Funding**

- A. The operation of the Onida Municipal Airport shall be funded principally through revenues from payments derived from lease of airport land, hangar rentals and from other services that may be provided from time-to-time.
- B. Supplement funding may be authorized from time-to-time at the discretion of the Council.

**Section XIV.2.5 Airport Board**

- A. The Mayor with the consent of the City Council shall appoint a three member board, but no more than six members.
- B. Members shall be appointed for a three-year term. Members may be reappointed with no term limits.
- C. There shall be no residency requirement. Appointments shall be made on a merit basis.

**Section XIV.2.6 Liability**

Airport tenants shall be obligated to carry liability insurance for at least \$1,000,000 dollars for any personal injury or property damage for which the tenant might become liable due to possession, building, operating and maintenance of the aircraft hangar. Proof of compliance with this provision shall be filed at all times during the term of this lease or any extension thereof with the Finance Officer of the City by the tenant filing a certificate of insurance certifying that said insurance is in full force and effect.

**Chapter 3: Operations****Section XIV.3.1 Responsibilities**

- A. The Council shall have general management and oversight of the Onida Municipal Airport.
- B. The Airport Manager shall be responsible for the day-to-day operation of the Onida Municipal Airport under the oversight of the Council.
- C. The Airport Manager shall provide or secure services such as snow removal, mowing, spraying, runway light maintenance and other maintenance and repair of airport property and equipment.
- D. The Airport Board shall meet as necessary to develop recommendations and suggestions for the improvement of the Onida Municipal Airport. Said recommendations and suggestions shall be submitted to the Council for appropriate action.
- E. Tenants (Hangar Owners):
  - 1. May lease from the City ground upon which the tenant's hangar exists for such term and fees as specified in the executed lease.
  - 2. Fees shall be payable in advance on or before the anniversary date of the lease agreement.
  - 3. May not alter the terms and specifications of the building as approved by the Council in any respect without the express written consent of the Council. The tenant may not alter or

remodel the hangar at a later time or move the building without the written consent of the Council.

4. The hangar will remain the property of the tenant and all obligations to insure said property shall be that of the tenant, but under no circumstances may the tenant ever remove the building from the land on which it is constructed without the express written permission of the City. This lease shall be assignable by the tenant so as to give effect to the sale by the tenant of the aircraft hangar. It is understood that the hangar shall remain on the lot on which it was constructed and cannot in any event be removed by an assignee without the written permission of the City.
5. Shall be obligated to keep the hangar and all of the land situated within the hangar lot being leased in a clean and orderly condition and in a good state of repair. Any breach of this provision shall allow the City to cancel this agreement as provided.
6. The tenant may not under any circumstances store gasoline or any other flammable liquid within the hangar or premises being leased herein other than what aircraft fuel may be incidentally stored within the operating tanks of an aircraft situated in said hangar. The tenant shall not store any other substance or material in the hangar that would create a fire hazard not usual to aircraft hangars or a aircraft hanger out of which an ag based spraying operation is based.
7. Shall save the City harmless from any and all liability arising out of the tenant's possession, building, maintenance and operation of the aircraft hangar.
8. May be required by the City to move his aircraft hangar at the tenant's own expense to another location provided for privately owned hangars if substantial change is made by the City so as to necessitate a change in location of the aircraft hangars.
9. Understand that upon termination of the lease agreement both by the expiration of the terms or any renewal thereof, the aircraft hangar shall become the sole and complete property of the City and the tenant shall have no further interest in the same. Upon termination any and all utility bills, leans, and unpaid lease time needs to be paid in full by the tenant.

#### **Chapter 4: Administration**

To the extent that any provision in this Chapter is in conflict with any other existing provision of City Ordinances, the provisions contained herein shall replace such prior provisions. Any prior provisions, which deal with the same subject matter but are not in direct conflict with provisions of this Chapter, shall remain in full force and effect.

