

# ONEIDA COUNTY DEVELOPMENT CODE

## Policy Statements

Using the findings from the analysis component segment, the Planning and Zoning Commission with consideration to public comment and input has developed the following policy statements. The policy statements will be used to formulate the Planning and Zoning Ordinances.

### **Policy: *Provide Protection to People and Property in Recognized Hazardous Areas***

It shall be the policy of Oneida County to direct development away from naturally hazardous sites, and where feasible, require site planning or construction techniques to mitigate the hazard. The following regulatory strategies will be used to implement the policy:

1. The County will use its development code to direct development away from flood hazard areas and steep slopes.
2. The County will use its development code to require that residential housing meets construction standards as required under the IBC applicable to the seismic zone classification for the area.
3. The County will use its development code to encourage the provisions for firebreaks and encourage the provision of a water supply adequate for fire fighting for residential developments vulnerable to destruction by wildfire.

### **Policy: *Provide for the Respect and Diversities of People in the Implementation of Community Design***

It shall be the policy of Oneida County to recognize the issues reflecting respect for neighboring diversities and the need to bring understanding and harmony to issues involving mutual interactions and concerns. The development code will direct attention away from conflict issues by providing the following policies:

1. The development code will define minimum lot size for residential development.
2. The development code will define standards for the siting of manufactured homes under Idaho Code 67-6509A.
3. The development code will address enforcement of noxious weed laws, and encourage the adoption of a county Nuisance Ordinance.
4. The development code will define and provide instructions pertaining to the Idaho fencing laws.
5. The development code will address requirements related to tract splits.
6. The development code will address setback requirements, standards for noise, landscape buffering, home occupations, and number(s) of allowable livestock on residential lots and sign standards and placement.
7. Oneida County has a Wrecking Yard Ordinance in place.

**Policy: *Protect Existing Farm Operations***

It shall be the policy of Oneida County to recognize the economic importance of agriculture by discouraging development that may conflict with existing farm operations, requiring future rural residents to acknowledge the right of neighboring agricultural operations to continue.

This policy recognizes both the importance of agriculture upon the economic security of the County and the possibility of conflict between agriculture and other land uses.

1. The County will actively enforce the provisions of Idaho Code 31-3805, a statute that requires the advice of affected irrigation companies in reviewing proposed subdivisions.
2. The County will attempt to minimize friction between rural residential development and agriculture. The development code will require that an agreement in favor of the continuation of normal farm operations on adjoining lands be recorded prior to permitting residential developments.

**Policy: *Assure Provision of Adequate On-Site Facilities in All New Developments***

It shall be the policy of Oneida County to protect the general taxpayer and future occupants of development by requiring that safe, adequate roads and other essential facilities be provided by, and at the expense of, the developer.

1. The county will use its development code to encourage provision of state approved central water systems, including water systems that produce adequate fire flows. Where reliance on individual wells is proposed, the county will require evidence that a sufficient water supply is present.
2. On-site sewage disposal systems will be required to comply with all applicable state standards.
3. Limited resources and an already lengthy road network make it unreasonable for the County to accept responsibility for road maintenance in individual developments.
4. The development code will require safe access to public roads and highways from both connecting roads and private driveways and that private roads be constructed to standards assuring safe access for public safety and emergency services vehicles.
5. The development code will require that developers will enter into agreements that will assure that all onsite improvements will be constructed and maintained.

**Policy: *It shall be Oneida County's policy to maintain the comprehensive plan with regular updates of background studies and amendments that reflect changing conditions.***

1. The Planning and Zoning Commission should conduct an annual Comprehensive plan and Development Code review no later than March of each year.
2. Expand the informational background for this plan. The county should attempt to create a detailed current land use database, expand the natural resource inventory, prepare a survey of local historic resources.

3. The County will review and update annually the statistical data compatible to forecasting economical impact upon infrastructure and facilities.

***Policy: It shall be Oneida County policy to acquire participation in the National Flood Insurance Program. Participation in this program allows residents potentially affected by flooding to purchase insurance, while supplementing planning areas policies requiring the protection of stream corridors with construction standards for any development that is permitted within the flood plain.***

1. The County will immediately make application for a flood plain mapping study.
2. The development code will require construction standards for development within the flood plain.

***Policy: It shall be Oneida County's policy to cooperate with Malad City in planning for reasonable areas of city impact and to assist the city in adoption and administration of the county plan and development code.***

1. Adopt an area of city impact agreement with Malad City. This should be the first priority of the county Planning and Zoning Commission. A planning review will be conducted on an annual basis.

***Policy: Protect the Public Investment in the County Airport and the Safety of Air Travelers by adopting area height limitations and safety restrictions, as recommended by the Federal Aviation Administration.***

1. Adopt and enforce the relevant portions of the Federal Aviation Administration regulations for Objects Affecting Navigable Airspace.

## CHAPTER 1

### SECTION:

**1-1 Purpose, Authority, and General Provisions**

**1-2 Definitions**

### **1-1 PURPOSE, AUTHORITY, AND GENERAL PROVISIONS**

**What This Chapter Does.** This chapter establishes the purpose of this ordinance, identifies the enabling statute pursuant to which it is adopted, repeals conflicting ordinances, establishes certain vested rights during the transition from the previous ordinance, provides rules for the continuation of nonconforming uses, and establishes rules for its interpretation.

**Purpose.** The purpose of this ordinance shall be to promote the health, safety, and general welfare of the people of Oneida County by fulfilling the purposes and requirements of the Local Planning Act of 1975 and implementing the Comprehensive Plan. Specific statements of purpose accompany selected provisions of this Ordinance, but the comprehensive plan provides the full statement of the County's purpose and intent in Planning and Zoning activities.

**Authority.** This ordinance is adopted pursuant to the authority granted by the Local Planning Act of 1975. It includes the zoning ordinance required by I.C. 67-6511 and the subdivision ordinance required by I.C. 67-6513. It also fulfills the other requirements of the Local Planning Act, including the provision for variances required by I.C. 67-6516, the adoption of procedures for processing permits required by I.C. 67-6519, and the adoption of a hearing procedure required by I.C. 67-6534.

**Conflicting Ordinances Repealed.** All prior ordinances are repealed to the full extent of their inconsistency with this ordinance.

**Vested Rights.** A vested right is the right to proceed with development under a previous set of regulations, or the right to proceed under this ordinance, pursuant to a development agreement.

1. Vested rights to proceed with development initiated prior to the adoption of an Oneida County Development code shall be established only by:
  - A. Having obtained a building permit in full compliance with the provisions of the previous regulations (such vested rights expire with the permit); or
  - B. Having recorded a final plat in full compliance with the provisions of the previous regulations. Recording a final plat establishes a vested right to the lot layout and road network of the subdivision. It does not establish a vested right for a particular use or development of any lot.
2. Vested rights to proceed with development under the provisions of this ordinance shall be established only by:
  - A. Recording a final plat in full compliance with its provisions.

- B. Executing a development agreement in full compliance with its provisions, or
- C. Obtaining a Class I or Class II permit in full compliance with its provisions. Such vested rights expire with the permit.

**Nonconforming Uses and Buildings.** A nonconforming use or building was in existence on the effective date of this ordinance, but would not comply with one or more of its requirements if submitted for approval after that date. Nonconforming uses and buildings may continue subject to the rules established here. While the purpose of these rules is to help eliminate nonconforming uses, it is recognized that routine maintenance and repair and, in some cases, a change of occupancy to another nonconforming use or replacement of a nonconforming building may be necessary to prevent community blight.

1. Any nonconforming use abandoned for more than 18 months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of 18 or more months.
2. There shall be no limit on repair or maintenance activities for nonconforming uses or buildings, provided that no such activity shall increase the degree of nonconformity.
3. Changes in occupancy may be permitted in nonconforming commercial or industrial buildings, provided that the new occupancy is no more intense (with intensity being measured by traffic and noise generation, parking requirements, and similar factors) than the existing. Requests for such changes in nonconforming occupancies shall be processed as applications for Class II permits.
4. Nonconforming buildings may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the community, and where the degree of nonconformity is not increased. Requests for replacement of nonconforming buildings shall be processed as applications for Class II permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a permit (a permit may be required by the IBC), if the degree of nonconformity is not in any way increased and if the replacement is completed within 12 months of the building's destruction.
5. There are additional limitations on nonconforming uses and buildings in the Airport and Floodplain Overlay Zoning Districts.

**Most Restrictive Standards Apply.** When future ordinances, or state or federal law, impose additional standards on activities governed by this ordinance, the most restrictive standard shall apply.

**Conflict with Private Agreements.** This ordinance does not nullify easements, covenants, deed restrictions, and similar private agreements; but where any such private agreement imposes standards that are less restrictive than those adopted here, this ordinance shall apply.

**Burden of Proof.** The burden of proof shall, in all proceedings pursuant to this ordinance, rest with the developer.

**Interpretation.** All ordinance provisions shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare as implied by the Local Planning Act of 1975 and the current issue of the comprehensive plan. This ordinance is designed for consistency with the comprehensive plan and should be liberally construed to achieve that plan's purposes and intent.

**Severability.** If any provision of this ordinance is held to be invalid by any court, the remainder shall continue in full force.

## **1-2 DEFINITIONS**

***What This Section Does.** This section provides definitions for terms used in this ordinance. Any dispute about the meaning of a term shall be resolved using the appeals procedure.*

***Rules of Interpretation.** Terms include both singular and plural forms; i.e. building includes buildings, and, except where otherwise indicated, terms include their derivatives; i.e. adjacent includes adjoining.*

***Absolute:** A performance standard with which all developments must comply.*

***Accessory:** Accessory buildings and uses are those customarily associated with and clearly subordinate to principal building or use that exists on the same lot or parcel.*

***Accessory Building or Structure:** A building or structure accessory to and located on the same lot as the principal use or building which serves a purpose customarily incidental to the use of the principal building (e.g. detached garage, storage shed, gazebo, etc.)*

***Adjacent:** Adjacent includes all lots or parcels that directly border a lot or parcel, and all lots or parcels separated from that lot or parcel by only a public or private easement or right-of-way, including roads, railroads, and irrigation canals.*

***Administrator:** A county employee who may be given responsible for administration of this ordinance.*

***Alternative Support Structure:** Clock towers, steeples, silos, light poles, water towers, buildings, or similar structures that may support telecommunication facilities.*

***Antenna:** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include devices having active elements extending in any direction and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be a part of the antenna.*

***Antenna Building Mounted:** Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building.*

***Antenna Ground Mounted:** Any antenna with its base placed directly on the ground.*

***Approach Surface:** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope established above. In plain view, the perimeter of the approach surface coincides with the perimeter of the approach zone.*

***Arterial:** Includes all state and federal highways and other major roads as shown in the comprehensive plan.*

***Board:** The Oneida County Board of Commissioners. The elected officials responsible for adoption of this ordinance.*

***Building:** As used in this ordinance, refers to any structure except stationary liquid or gas storage tanks.*

***Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.*

***Building Bulk:** Building bulk may be measured and compared in terms of floor area ratio (the total square footage of all floors as a percent of lot size).*

***Building Height:** The vertical distance from the average natural grade to the highest point on a building. Building height excludes chimneys, vents, and antennas.*

***Buffer:** A landscaped area along the perimeter of a site. Buffers are encouraged by this ordinance to help assure land use compatibility.*

***Certificate of Compliance:** A certificate issued by the Commission upon completion and acceptance of all required improvements.*

**Camouflaged Tower:** Any telecommunication tower that due to design or appearance entirely hides, obscures, or conceals the presence of the tower and antennas.

**Commercial:** Areas within incorporations available for small to moderate business.

**Commission:** The Oneida County Planning and Zoning Commission.

**Compatibility:** Land uses need not be identical to be compatible, but must be sited, designed, constructed, and used in such a way that the normal functions and operation of neighboring uses do not seriously conflict, and so that their appearance is harmonious.

**Comprehensive Plan:** A full statement of the County's purpose and intent in Planning and Zoning activities.

**Conical Surface:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

**County:** Refers to Oneida County, Idaho.

**Density:** The number of dwelling units per gross acre. Gross acreage includes the entire development (roads, common open spaces, etc.). Density is not synonymous with lot size.

**Developer:** The owner of the parcel on which a development is proposed, but owners may appoint a representative for proceedings required by this ordinance.

**Development:** Development is used as a generic term covering any and all activities for which a permit is required by this ordinance.

**EPCRA:** The Emergency Planning and Community Right-To-Know Act of 1986.

**FEMA:** Federal Emergency Management Agency.

**FSA:** Farm Service Agency.

**Flood:** Partial and complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source. The base flood is the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood."

**FIRM:** Flood Insurance Rate Map. The official map on which the Federal Insurance Administration has delineated areas of special flood hazard and risk premium zones. The flood insurance study is the official report of the Federal Insurance Administration, including flood profiles, flood boundary maps, and the water surface elevation of the base flood.

**Floodplain:** Refers to the special flood hazard areas defined and mapped by the Federal Emergency Management Agency.

**Guyed Tower:** A telecommunications tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

**Hazardous Substances:** Any material regulated by EPCRA, as amended.

**Height, Telecommunications Tower:** The distance measured from the original grade at the base of the tower to the highest point of the tower. This measurement excludes any attached antennas, protection devices (e.g. lightning rods) and lighting.

**Home Occupation:** A commercial or industrial activity conducted in a dwelling or a building accessory to a dwelling.

**Horizontal Surface:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which, in plain view, coincides with the perimeter of the horizontal zone.

**IBC:** Acronym for the International Building Code published by the International Conference of Building Officials.

**I.C.:** Refers to the Idaho Code, the state statutes.

**Industrial:** Areas available for light to heavy industrial business.

**Lattice Tower:** A telecommunication tower that consists of vertical and horizontal supports and crossed metal braces.

**Large Scale Development:** See Chapter 5 pg. 42.

**Livestock:** Cattle, goats, horses, or sheep kept for personal pleasure or consumption.

**Lot:** Lot is used as both a generic term for a development site and to refer to any parcel of land created and described by a record of survey or plat.

**Lowest Floor:** The lowest floor of the lowest enclosed area, including the basement, of a building. An unfinished or flood resistant enclosure, usable solely for parking, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that it does not place the building in violation of the non-elevation design requirements.

**Manufactured Home:** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is designed to be placed on a permanent foundation, permanently connected to all required utilities, and used as a permanent dwelling unit. Within the Floodplain Overlay Zoning District, for floodplain management purposes, the definition of "manufactured home" shall be expanded to include recreational vehicles, travel trailers, and similar vehicles or trailers that are left in place for 180 or more consecutive days (use of such vehicles as a residence is prohibited by this ordinance), but recreational vehicles, travel trailers, and similar vehicles or trailers are not manufactured homes for flood insurance purposes.

**Manufactured Home Park:** Any lot or parcel on which there are spaces for occupancy by more than one manufactured home that will not be placed on a permanent foundation. Such spaces are normally rented or leased, but rental or lease is not necessary for the purposes of this definition.

**Minimize:** For the purposes of the regulations, "to minimize" (as in the number of access points or impacts on visually sensitive areas) means to show that no alternative plan for the proposed development will result in a smaller impact.

**Minimum Lot Size:** The minimum size of residential lots is one (1) acre.

**Minor Utility Installations:** Includes cable television, electric power, telephone cables and transmission lines, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines. Other utility installations are industrial uses.

**Monopole:** A telecommunication tower of a single pole design.

**Navigable Stream or Lake:** As designated on the United States Geological Survey (USGS) map and/or the Oneida County Zoning maps.

**New Construction:** Buildings for which the "start of construction" was on or after the effective date of this ordinance.

**Nonconforming:** Describes any use or building that was in existence on the effective date of this ordinance, but that would not comply with one or more of its requirements if submitted for approval.

**Non-Conforming:** Any pre-existing telecommunications facility that was in existence prior to the adoption of this ordinance and that has not been issued a conditional use permit or was issued a conditional use permit prior to the adoption date of the Ordinance.

**Obstruction:** Any structure, growth, or other object, including any mobile object, which exceeds any height limitation as established.

**Occupancy:** The use of a building or lot. Occupancies are classified using the Standard Land Use Coding System (SLUC). A minor change in occupancy is a change within the two-digit SLUC code or a change to any occupancy that has identical parking requirements and similar traffic generation potential, creates no additional sign age, and, has, as determined by the Planning and Zoning Commission, similar or lesser impacts on neighboring land uses.

**Open Space Use:** Use for passive or active recreation for the public or the occupants of a development. Use as a marketing feature for the development. Use to provide environmental amenities for occupants of a development, including views, attractive natural vegetation, and the presence of wildlife.

**Operation:** Means other than nominal use; when a facility is used regularly as an integral part of an active system of telecommunications, it shall be deemed in operation.

**Parcel of Land:** A contiguous piece of property with one owner, with the exception of natural boundaries including roads.

**Plat:** The legal map of a subdivision. A plat amendment is a minor change in the lot arrangement or routing of rights-of-way or easements in a previously recorded subdivision plat. Plat amendments are instituted by the recording of an amended plat.

**Platform:** A support system that may be used to connect antennas and antenna arrays to telecommunication towers or alternative support structures.

**Primary Surface:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is 250 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**Private Right of Way:** A thoroughfare or road which by easement or by ownership has been reserved for a lot owner(s) to be used as private access to serve the lot(s). No public entity shall have responsibility for maintenance or improvements to private rights of way. All roads constructed in subdivisions in Oneida County will be private rights of way.

**Private Utilities:** Cable television, electric power, natural gas, and telephone services.

**Recreational Vehicle:** As per I.C. 49-2801, a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for recreational or emergency occupancy.

**Relative Performance Standard:** A relative performance standard encourages or discourages a certain kind or level of performance in development activity.

**Residential Lot:** Any tract of land of 1 acre or more and less than five (5) acres which is used by the owner thereof solely for residential purposes.

**Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length. A utility runway is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less. A visual runway is intended solely for the operation of aircraft using visual approach procedures.

**Satellite Dish:** A device incorporating a reflective surface that is solid, open mech, or bar configured that is shall dish, cone, horn, or cornucopia shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs (satellite television receive only) and satellite microwave antennas.

**Setback:** All setbacks are measured at right angles from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

1. The front setback is measured from the lot line paralleling a public street to the principal building. Corner lots have two front yards, but may treat either as a side yard for the purposes of this ordinance except where the adjacent street is an arterial.
2. The rear setback is measured from the rear lot line to the principal building. The rear lot line is parallel, or more or less parallel, to the street. Corner lots have two rear yards, but may treat either as a side yard for the purposes of this ordinance.
3. The side setback is measured from the side lot line to the principal building.

**Single Family Dwelling:** A detached building designed for occupancy by one family. Also includes group homes, as required by I.C. 67-6530, et. seq. Includes both conventional dwellings and manufactured homes that: 1) comply with the National Manufactured Home Construction and Safety Standards Act (40 USC 5401) or the Uniform Building Code; 2) have all hitches, wheels, chassis, and other running gear removed and are attached to a permanent foundation; and 3) where available, are permanently connected to central utilities. Recreational vehicle and travel trailers are not single family dwellings and shall not be used as such but are included within the definition of “manufactured home”.

**Site Plan:** A site plan is a scale drawing, or a series of such drawings, that illustrates all those details of a proposed development needed to demonstrate compliance with this ordinance, including the location of existing and proposed property lines, easements, buildings, parking areas, streets, sidewalks, landscaped buffers, and other feature of the site. Where an erosion and runoff control plan is required, the site plan must be prepared on a detailed (contour intervals of two feet) topographic base.

**Sketch Plan:** A sketch plan is a general or conceptual site plan of a development. It must include the approximate location of all lot lines and streets; the approximate location and exterior dimensions all

structures; the approximate location, size, and circulation pattern of all parking areas; and the approximate location and dimensions of all landscaped buffers.

**Solid Waste:** Material being stored, packaged, or processed for ultimate disposal or recycling. For the purposes of this ordinance, the waste normally generated by a farming operation (crop stubble and residue, manure, etc.) is not solid waste until transported from the farm on which it was generated.

**Special Flood Hazard Area:** Land subject to a one percent or greater chance of flooding in any given year. Designation on Flood Insurance Rate Maps (FIRM) always includes the letter A or V.

**Start of Construction:** Applies to both substantial improvements and new construction and means: the date a permit was issued, provided the actual start of construction, repairs, placement, or other improvements was within 180 days of the permitted date. "Actual start" means either the first placement of permanent construction on a site, such as pouring a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundation, or erection of temporary forms; nor does it include installation of accessory buildings.

**Storage Tanks:** Mobile tanks shall meet the requirements of the Idaho Department of Transportation. All stationary commercial liquid or gas storage tanks and stationary farm liquid or gas storage tanks over 1,100 gallons or larger shall be installed in accordance with Idaho State Uniform Fire Code.

**Structure:** Any object, including any mobile object, constructed or installed by man, including without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines. For the purposes of this ordinance, synonymous with "building".

**Subdivision:** Idaho Code Definition: 50-1301-15: A tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale for building (residential and/or commercial) development, whether immediate or future; provided that this definition shall not include a bona fide division or partition of agricultural land for agricultural purposes. A bonafide division or partition of agricultural land for agricultural purposes shall mean the division of land into lots, all of which are five (5) acres or larger, and maintained as agricultural lands. Cities or counties may adopt their own definition of subdivision in lieu of the above definition. Oneida County requires a subdivision to be a minimum of 2 lots. The beginning date for lot splits for the purpose of subdivisions shall be established as January 1, 2000.

**Substantial Improvement:** Repair, reconstruction, or improvement of a building, the cost of which equals or exceeds 50% of the building's market value either before the improvement or repair is started, or where the building has been damaged and is being restored, before the damage occurred. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects its external dimensions. The term does not include any project for the improvement of a building required to comply with state or local codes assuring safe living conditions.

**Telecommunication Facility:** A facility, site, or location that contains one or more antennas, telecommunication towers, alternative support structures, satellite dish antennas, other similar communication devices, and support equipment which is used for transmitting, receiving, or relaying telecommunications signals.

**Telecommunication Facility Co-Located:** A telecommunication facility comprised of a single telecommunication tower or building supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

**Telecommunication Support Facility:** The telecommunication equipment buildings and equipment cabinets.

**Telecommunications Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including camouflaged towers, lattice towers, guyed towers, or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers.

**Tract of Land:** An area of land with contiguous boundaries in the same ownership which is not divided by any public road right-of-way.

**Transitional Surfaces:** The surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

**Utility Pole Mounted Antenna:** An antenna attached, without regard to mounting, to or upon an existing or replacement electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar structure approved by the Oneida County Planning and Zoning Department.

**Vacation:** The process provided by state law (see I.C. 50-1306A) and this ordinance for the elimination of a recorded subdivision plat.

**Variance:** According to I.C. 67-6516, "A variance is a modification of the requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of structure or the placement of the structure upon lots or the size of lots." Land use cannot, by definition, be varied.

**Vested Right:** The right to proceed with development under a previous set of regulations or the right to proceed under this ordinance, pursuant to a development agreement.

**Wetland:** Wetlands shall be defined in the current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

**Wildlife Habitat:** Any area that provides the environmental factors required for the survival of a particular species of wildlife. Critical wildlife habitat includes all important habitat areas shown on the natural resource inventory maps prepared for the county or other areas so identified by the Idaho Fish and Game Department.

**Yard:** The area between the lot lines and the principal building created by the required setbacks.

## CHAPTER 2

### SECTION:

#### 2-1 PLANNING AND ZONING COMMISSION

**What This Chapter Does.** This chapter establishes a county Planning and Zoning Commission.

**Planning and Zoning Commission.** A Planning and Zoning Commission is established, as authorized by I.C. 67-6504.

1. The Commission shall consist of 7 members appointed by the Board of County Commissioners.
2. As required by I.C. 67-6504(a), all Commission members shall have resided in Oneida County, Idaho, for at least two years prior to their appointment.
3. Commission members shall serve terms of three years, except those members initially appointed, who shall serve terms, as set by lottery, of one, two, or three years, in order to provide for the annual appointment of at least one member.

**Duties of Commission.** The Commission shall, as required by I.C. 67-6508, “conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan” for the county. The Commission shall exercise all powers granted it by the Local Planning Act of 1975 and fulfill all duties required by this ordinance.

**Zoning Administrator.** The Board may appoint an administrator, who shall perform the following duties:

1. Assist members of the public in understanding the applicability and requirements of this ordinance;
2. Review applications for permits required by this ordinance, accepting only complete applications.
3. Arrange for the professional review of applications for Class II permits;
4. Issue certificates of compliance, based on site inspections, and enforce the provisions of development agreements;
5. Investigate possible violations of this ordinance;
6. Properly account for all fees collected in the administration of this ordinance and prepare monthly and annual reports of development activity in the county;
7. Perform all other duties assigned by this ordinance and assist the Commission in the execution of its duties.

**Liability.** No individual, including Board or Commission members, or other county employees, who acts in good faith and without malice in the performance of duties assigned by this ordinance shall be held liable for errors or omissions in its administration. A suit brought against such an individual shall be defended by the county and any judgment resulting from such a suit shall be the liability of the county.

## CHAPTER 3

### SECTION:

- 3-1 Administrative Procedures
- 3-2 Permit Procedures
- 3-3 Appeals and Variances
- 3-4 Hearing Procedure
- 3-5 Enforcement
- 3-6 Amendments
- 3-7 Vacation of Plats

### 3-1 ADMINISTRATIVE PROCEDURES

**What This Chapter Does.** This chapter requires a permit for all land development and building activity in the county and establishes procedures for the administration of this ordinance.

### 3-2 PERMIT PROCEDURES

**Permit Required.** A permit shall be required for any division of land; any clearing, grading, construction, or reconstruction; and any change in land use, except as specifically conveyed under exemptions. Permit shall be required prior to the commencement of any construction.

1. A Class I permit shall be required for:

~~A. All lot splits on 40 or less acre tracts, and all lot splits for the purpose of residential occupancy will require a survey prior to permitting, and all tract divisions for the purpose of residential occupancy. This survey is necessary to provide an accurate legal description for the county assessor.~~

~~B. Any lot split or plat amendment;~~

A. Any single family dwelling;

B. Any accessory building as not provided by exemption;

C. Any home occupation (business);

~~E. Occupational changes effecting safety or health.~~

#### ***Detailed Performance Standards for Home Occupations***

***Purpose.*** These performance standards will permit limited commercial activity in residential areas, while assuring that such activity does not diminish the residential character of the neighborhood. Approval of a home occupation does not change any requirement of this ordinance that is applicable to the dwelling to which it is accessory.

***Maximum Floor Area.*** Home occupations may be located within dwellings or accessory buildings, but no home occupation shall occupy a floor area larger than that of the dwelling to which it is accessory.

*Nonresident Employees.* No home occupation shall have more than two employees who are not a member of the resident family.

*Off-Street Parking.* Home occupations shall provide off-street parking for all employees and any vehicles associated with the home occupation.

*Outdoor Storage.* The storage of any materials or solid waste associated with a home occupation shall be: a) within an enclosed structure, or b) within an area that is effectively screened from public view.

*Signs.* Home occupations shall display only the following signs: a) one non-illuminated wall sign of no more than six square feet, and b) one non-illuminated on-site directional sign of no more than four square feet.

2. A Class II permit shall be required for:

- A. Any subdivision as defined by Idaho Code 50-1301-12 (See definition);
- B. Any higher density residential development, including multi-family dwellings or manufactured home parks; and
- C. Any commercial or industrial development, including any major change in occupancy in an existing commercial or industrial use or structure.

3. *Other permits:*

*A. Zoning permit for structures for the purpose of agricultural use.*

~~*B. Prior use CAFO/ACO*~~

*B. Conditional Use, i.e.: Cell Towers, Wind Turbines, Home occupation (business) that does not meet performance standards on page 79.*

*C. Lot Split or Plat Amendment*

*D. Road Encroachment*

~~Whenever a reconstruction project of a home requires the replacement of any two of the following elements, a building permit and inspections will be required, even when the footprint does not change.~~

~~o Roof~~

~~o Walls~~

~~o Sewer/Septic System~~

~~o Foundation~~

~~o Electric Wiring~~

~~o Plumbing when adding an additional bathroom~~

~~o A second level added~~

### **Accessory Buildings.**

1. **Area of Accessory Structures.** Any non-agricultural building with a footprint larger than 120 square feet requires a building permit. Second or subsequent accessory structures require building permits. The total floor area of accessory buildings shall not exceed fifty (50) percent of the footprint of the

principal dwelling or 3.5% (floor-area-ratio) of the lot size. Agricultural buildings, although exempt from receiving a building permit as per State Law, would require a site plan approval from the Planning Commission. The site plan must include the following: 1) location of the structure on the property; 2) show setbacks from the property and adjoining properties.

2. **Accessory Structures.** Prohibited as living area. Living and sleeping quarters shall not be permitted in any accessory building.
3. **Accessory Structures.** Time of construction. No accessory structures, *except for approved agricultural buildings*, may be constructed prior to the construction of the main building on the lot without prior conditional use granted by Planning and Zoning Commission.
4. **Location of Detached Accessory Structures and Buildings.** All accessory buildings or structures shall conform to all setback requirements applicable to other buildings in the county.

~~5. **Accessory Structures Permit Requirement.** Except for an approved agricultural building, a building permit shall not be approved for an accessory building unless there is an existing main structure on the same property or a main structure that has received a building permit without prior conditional use granted by Planning and Zoning.~~

**Exemptions for Land Divisions.** Exemption of a land division does not exempt development of the parcel created from compliance with this ordinance. No permit shall be required for:

1. Any land division that results from the settlement of an estate or a court decree for the distribution of specific parcels of property;
2. Any land division that results from a condemnation proceeding or the voluntary sale or gift of land for a public purpose.
3. Any cemetery plat;
4. Any land division in which all resulting parcels are greater than 40 acres in size; or
5. The adjustment of unplatted property lines in which no new parcel is created and no nonconforming lot, parcel, use, or structure results. Plat amendments require a Class I permit and approval by the Board.

**Exemptions for Construction Activity.** The activities listed here are not exempt from any applicable requirement of this ordinance, except the requirement for a permit. No permit shall be required for:

1. Clearing and grading for agricultural purposes, the maintenance and construction of irrigation works, and grading required for the maintenance (but not change or expansion) of an existing use or structure;
2. Repair or remodeling that does not constitute new construction, reconstruction and does not alter the exterior dimensions of the structure;
3. Accessory buildings (note that this generally exempts accessory buildings of less than 120 square feet in floor area and less than 10 feet in height);

4. Fences of eight feet or less in height (note that all fences must comply with the requirements for clear sight triangles at intersections and points of access to public roads);
5. Minor utility installations; and
6. Certain signs, as provided in Chapter 13.
7. These exemptions may not apply within the Airport Overlay Zoning District.
8. The exemptions of 1, 3, 5, and 6 as listed within this section shall not apply within any stream corridor or special flood hazard established by this ordinance.

**Application Forms.** Applications for permits shall be submitted on forms provided by the county. All information, including a site plan, and other maps, plans drawings, tabulations, and calculations, called for on those forms shall be required for a complete application and no incomplete application shall be accepted. The Commission may require submission of multiple copies of applications and supporting materials.

**Application Fees.** Application fees for each type of permit established by this ordinance shall be established by resolution of the Board.

**Site Inspection.** The filing of an application for a permit constitutes permission for the county to conduct inspections of the proposed development site during its consideration of the application.

**Class I Permit Procedure.** The Class I permit procedure provides for the prompt review of minor developments and plat amendments, while assuring they have no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Class I permit procedure shall be as follows:

1. Home Construction/Accessory Buildings

- A. The developer shall file a properly completed permit application form and the required supporting materials.
- B. For Developments. The Commission shall determine whether the proposed development is in compliance with this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score of zero or more as outlined in Chapter 5 (i.e. a positive score) on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score of zero or less (i.e. a negative score) on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Where the proposed development is part of a larger development for which a Class II permit was previously approved, the Commission shall also determine whether it is in compliance with the previously approved development plan and all conditions attached to that approval. Conditions may be attached to approval of any permit.
- C. For Developments. The Commission shall notify the developer of the decision within 60 days.
- D. Upon finding that a development or plat amendment will have a significant adverse impact on environmental quality, neighboring land uses, or public facilities and services, the Commission may refer any application for a Class I permit to the Board. The Board may, upon confirming the

Commission finding, require that the application for a Class I permit be converted to an application for a Class II permit. Such referrals shall be placed on the agenda of the next regular board meeting.

- E. The Commission's decision may be appealed to the Board using the appeals procedure. A notice of any such appeal shall be filed with the Commission within 45 days after notice of the decision has been issued. Developers proceed at their risk during the appeal period.

**Class II Permit Procedure.** The purpose of the Class II permit procedure is to assure effective regulation of developments that may have significant impacts on public facilities, environmental quality, or neighboring uses. The Class II permit procedure shall be as follows:

1. The developer shall file a request for sketch plan review with the Commission.
  - A. The Commission shall place the sketch plan on the agenda of the next regular Commission meeting.
  - B. The Commission shall conduct a sketch plan review. A sketch plan review is not a regulatory proceeding, but an opportunity for the Commission to be made aware of the proposal and for the developer to be made aware of possible questions and the applicable requirements of this ordinance.
2. The developer shall file a **properly completed application form**, the required supporting materials, and the required application fee.
3. The Commission shall place a hearing on the application on the agenda of the next regular Commission meeting for which the notice requirements can be met, and at which time will permit its proper review.
4. The Commission may contract for professional review of the application, with the cost of that review being covered by the developer. Such reviews shall be prepared in the form of a written report submitted to the Commission for use at the hearing. The Commission shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
5. The content of all hearing notices shall be provided as follows:
  - A. By first class mail; to all owners of property within 1,000 feet of the site, at least 15 days before the hearing;
  - B. By newspaper publication; three legal notices in the official newspaper, with the first newspaper notice appearing at least 15 days prior to the hearing and the second one week later.
  - C. By first class mail; to all potentially affected public agencies, including the appropriate school and fire protection districts, and other interested parties on a list maintained by the Commission; and
  - D. By posting; at least seven days before the hearing, a sign conveying the required notice shall be placed on the site. Such signs shall be clearly visible from the nearest public road and may be placed at a point of access to the site, rather than on the site where the Commission determines that so doing will provide more effective notice.

- E. The actual cost of mail and newspaper notice shall be in addition to the application fee required. No permit shall be issued until payment is received.
6. The Commission shall conduct a hearing on the proposed subdivision. **No application shall be reviewed if the developer or a representative is not present.**
7. The Commission shall determine whether the proposed development is in compliance with the comprehensive plan and all requirements of this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score sufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score insufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Conditions may be attached to approval of any permit.
8. The Commission shall notify the developer and interested parties of the Commission's decision within 10 days.
9. The Commission's decision may be appealed to the Board using the appeals procedure. A notice of any such appeal shall be filed with the Commission within 10 days after notice of the decision has been issued. Developers proceed at their own risk during this appeals period.
10. The developer may file a final plat with the Commission at any time after the Class II permit for a subdivision is approved.
- A. The Commission shall place the final plat on the agenda of the next Commission meeting.
- B. No public notice or hearing is required for final plats, but no final plat shall be reviewed if the developer or a representative is not present.
- C. The Commission shall review the final plat and determine whether it is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat and recommend that it be signed by the Board. If it finds that the final plat fails to comply, it shall disapprove that plat and recommend that it not be signed by the Board. Conditions may be attached to approval of a final plat.
- D. If the Commission approves the final plat, the Commission shall place it on the agenda of the next regular board meeting. Commission disapproval of a final plat may be appealed to the Board using the appeals procedure. A notice of any such appeal shall be filed with the Commission within 10 days after notice of the decision has been issued.
- E. The Board shall determine whether the final plat is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat. If it finds that the final plat fails to comply, it shall disapprove that plat. Conditions may be attached to board approval of a final plat.
- F. The Board shall notify the developer and interested parties of the Board's decision within 10 days.

- G. Prior to final approval of any subdivision, the subdivider shall enter into an agreement with Oneida County which shall be substantially in the following form (Appendix E).
- H. In lieu of the actual completion by the subdivider and acceptance by the Board of the improvements required by this title, and before the Planning and Zoning Commission staff will approve the recordation of the final plat, the subdivider shall guarantee the installation and construction of the required improvements within 18 months from the date of final approval, and that the improvements shall be maintained in a state of good repair, free from defective material or workmanship, for a period of one year from the date of completion by one or more of the following methods (Appendix F):
- I. The owner/developer must sign the final plat within 30 days of final approval by the Board of County Commissioners.

### ***Other Permit Procedures***

1. ***Zoning Permit for Agricultural Building.*** *Agricultural buildings, although exempt from receiving a building permit as per State Law, would require a site plan approval from the Planning Commission. The permit procedure shall be as follows:*
  - A. *Owner shall file a properly completed application form and any required supporting materials.*
  - B. *A site plan showing location of the structure on the property and setbacks from the property and adjoining properties.*
  - C. *The Commission shall determine if the proposal is in compliance with this ordinance. If the permit complies with the ordinance the application shall be approved.*
- ~~2. ***Prior Use CAFO/ACO.*** *The prior Use CAFO/ACO permit procedure provides for the prompt review of a CAFO siting, while assuring there are no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Prior Use CAFO/ACO permit procedure shall be as follows:*~~
  - ~~A. *The operator shall file a properly completed application form and any required supporting materials.*~~
  - ~~B. *The Commission shall determine if the application meets the requirements of the CAFO Ordinance.*~~
2. ***Conditional Use.*** *The Conditional Use permit procedure provides for the prompt review of the proposed use, while assuring there are no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Conditional Use Permit procedure shall be as follows:*
  - A. *The Owner shall file a properly completed application form and any required supporting materials.*
  - B. *The Commission shall determine if the proposal is in compliance with this ordinance. If the permit complies with the ordinance the application shall be approved.*

4. ***For Lot Splits/Plat Amendments.*** *The Lot Split permit procedure provides for the prompt review of the proposed split or amendment, while assuring there are no significant adverse impact on environmental quality, neighboring uses, or public facilities and services. The Lot Split/Plat Amendment permit procedure shall be as follows:*

A. *The Owner shall file a properly completed application form and any required supporting materials.*

B. *The Commission shall determine: a) whether the lots resulting from the proposed plat amendment are capable of accommodating a use permitted by this ordinance, and b) whether the proposed amendment affects road or utilities access to any lot or adjoining parcel. If the lots resulting from the proposed plat amendment are capable of accommodating such a use and the amendment does not adversely affect access to any lot or adjoining parcel, the Commission shall approve the application for a permit and place the proposed plat amendment on the agenda of the next regular board meeting at which time will permit its proper review. If the lots resulting from the proposed plat amendment are not capable of accommodating such a use, or the amendment adversely affects access to a lot or adjoining parcel, the Commission shall disapprove the application for a permit.*

C. *Plat amendments approved by the Commission shall be reviewed by the Board which, if it affirms the Commission's findings, shall sign the amended plat.*

D. *Upon finding that a plat amendment will have a significant adverse impact on environmental quality, neighboring land uses, or public facilities and services, the Commission may refer any application for a Lot Split/Plat Amendment permit to the Board. The Board may, upon confirming the Commission finding, require that the application for a Lot Split/Plat Amendment permit be converted to an application for a Class II permit. Such referrals shall be placed on the agenda of the next regular board meeting.*

E. *The Commission's decision may be appealed to the Board using the appeals procedure. A notice of any such appeal shall be filed with the Commission within 45 days after notice of the decision has been issued. Developers proceed at their risk during the appeal period.*

5. ***For Road Encroachment.*** *The Road Encroachment Permit procedure is to assess the impact of such encroachments on the county road system and assure its integrity. The Road Encroachment Permit procedure is as follows:*

A. *The developer shall submit a properly completed application form and any required supporting materials.*

B. *The Commission shall determine if the proposal is in compliance with this ordinance. If the permit is in compliance the application shall be approved.*

**Conditions.** Conditions may be imposed on the approval of any permit or variance, provided that those conditions are clearly designed to assure compliance with one or more specific requirements of this ordinance, and that a list of all conditions imposed is provided to the developer with notification of the Commission's or Board's decision. That list shall specifically identify the provision of this ordinance the condition is designed to implement.

**Hearing Notices.** All required notices shall provide the following information: the name and mailing address of the developer; a legal description of the development site; the address of the development site, or another general description by which the public can identify the site; the present land use at the site; the proposed use and, for subdivisions, the proposed number of lots and average proposed lot size; the body (Commission and/or Board) that will conduct the hearing; the date, time, and place of the hearing; a statement of the availability of application materials for public review, and a statement the “PUBLIC COMMENT IS ENCOURAGED”.

**Validity of Permits.** Class I permits shall be valid for six (6) months and Class II permits shall be valid for eighteen (18) months from the date of approval, unless extended by written agreement with the Commission.

**Time Limit for Completion of Construction.** Time limit for completion will be 12 months. After this 12 month period, if construction is not complete, a 6 month extension may be applied for through the Commission with the appropriate extension fee attached as set by the Board of Commissioners.

## **ORDINANCE FOR BUILDING CODE ADOPTION**

### **Section 1. Building Code Adoption**

The International Building Code, latest edition as copyrighted by the International conference of Building Officials, shall be adopted by Oneida County and shall be the minimum construction standard for all structure built within the County, with all appendices and by adding the following exceptions, agricultural structures, and utility buildings:

### **Section 2: Building and Zoning Permit Required**

1. Residential Building Permit. A permit from the county is required to erect, construct or enlarge any stick-built home, manufactured home, or garage. Constructed storage or utility buildings under 120 square feet shall not require a permit. All permitted structures shall be inspected by the County Building Inspector to insure that International Building Code construction standards are met. The County shall be bound by the provisions of state laws regulating buildings. An approved building permit shall be posted on the site prior to the commencement of any construction.
2. Agricultural Farm Building. A zoning permit from the county is required to erect, construct, or enlarge agricultural farm buildings as governed by the Local Land Use Planning Act found in Idaho Code 67-65. Inspection by the County Building Inspector is not required.
3. Commercial Operations/Development Permit. A permit from the county is required to erect, construct or enlarge any commercial operations/development buildings or facilities. In addition, a public hearing may be required to insure that commercial operations/development is compatible with the area in which it is to be located. Inspection by the County Building Inspector is required.
4. Temporary Parking Permit for Recreational Vehicles (RV's). Inspection by the County Building Inspector will visit the site as often as required.

### **Section 3: Permits Fees**

Except as otherwise specified, all building permit fees shall be set by resolution of the Oneida Commissioners. Permit fees are non-refundable. Exception: Up to 80% of the fee paid may be refundable if the permit has not expired.

### **Section 4: Penalty and Violation**

Unless otherwise prescribed, violations of this chapter shall be punished by a civil punishment not to exceed three hundred dollars a day for each day of the violation or imprisonment for a term not exceeding six months, or both such fine and imprisonment.

### **Section 5: Permit Revocation**

In case of violation of any of the provisions of this chapter or further regulations of Oneida County by any person holding a required permit and after such violator has been given written notice of such violation and has failed to correct the violation within the time specified in the notice, the County, or its authorized representative, may declare the license revoked and notify the permittee. Any permittee who has had his permit so revoked shall not be issued another permit until said violation has been corrected. Any revocation may be appealed to the County Commissioners within thirty (30) days from the date notice of revocation is given to permittee.

### **Section 6: Failure to Obtain a Permit**

Any person cited with a “red tag” for failure to obtain a building permit must apply for a permit within 10 working days. A fine of 10% of the building permit costs or \$25, whichever is greater will be assessed. The building/owner will be notified by mail at the time the “red tag” notice is posted on the property.

## **3-3 APPEALS AND VARIANCES**

**Appeals.** Any decision of the Commission may be appealed using the procedure described here. Appeals from decisions of the Commission are heard by the Board.

1. The appellant shall file a properly completed notice of appeal, the required supporting materials, and the required appeal fee with the Commission.
2. The Commission or Board shall place a hearing on the appeal on the agenda of the next regular Commission or Board meeting for which the notice requirements can be met and at which time will permit its proper consideration. Notice requirements for an appeal shall be the same as for the original permit application.
3. The Commission or Board shall conduct a hearing on the appeal. No appeal shall be heard if the appellant or a representative is not present.
4. The Commission or Board shall determine whether the decision being appealed is in compliance with the comprehensive plan and this ordinance, and affirm, modify, or overturn the decision accordingly.

5. The Commission or Board shall notify the appellant and interested parties of the Commission's or Board's decision within 10 days.

**Variations.** Variations are intended to provide relief for landowners who, due to some unique physical characteristic of their property that is beyond their control, would have no beneficial use of the property if this ordinance is strictly enforced. Applications for variations shall follow the procedure described here. Applications for variations may be combined and processed simultaneously with applications for Class II permits.

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the Commission.
2. The Commission shall place a hearing on the variance on the agenda of the next regular Commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for a variance shall be the same as for a Class I permit, and Class II permit and variance hearings may be combined where appropriate. Where such a combination is made, the hearing notice shall specifically describe the proposed variance, including a citation of the sections of this ordinance from which a variance is requested.
3. The Commission shall conduct a hearing on the proposed variance. No application for a variance shall be reviewed if the developer or a representative is not present.
4. The Commission shall approve a variance only upon finding that:
  - A. The need for a variance results from physical limitations unique to the lot or parcel on which the variance is requested;
  - B. Failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot or parcel is possible without a variance;
  - C. The alleged hardship has not been created by action of the owner or occupants;
  - D. Approval of the variance will not create a nuisance, result in potential harm to adjoining properties or the neighborhood, or have an adverse affect on the implementation of the comprehensive plan; and
  - E. The variance approved is the minimum relief from the requirements of this ordinance necessary to permit a reasonable conforming use.
  - F. Additional findings are required for variations in the Airport and Floodplain Overlay Zoning Districts;
  - G. Conditions may be attached to the approval of any variance.
5. The Commission shall notify the developer and interested parties of the Commission's decision within 10 days.

6. The Commission's decision may be appealed to the Board using the appeals procedures. A notice of any such appeal shall be filed with the Commission within 10 days after notice of the decision has been issued. Developers proceed at their own risk during this appeal period.

### **3-4 HEARING PROCEDURE**

**Hearing Procedure.** This procedure shall be followed in all hearings before the Commission or Board.

1. The presiding officer (Chairperson of the Commission/Board) shall announce the purpose and subject of the hearing.
2. The presiding officer (Chairperson of the Commission/Board) shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be re-scheduled.
3. The presiding officer (Chairperson of the Commission/Board) shall ask if any Commission/Board member wishes to declare a conflict of interest, as defined by I.C. 67-6506, in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.
4. The presiding office (Chairperson of the Commission/Board) shall ask the Commission representative to present a report on the proposal being considered.
5. The presiding officer (Chairperson of the Commission/Board) shall direct questions from Commission/Board members. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.
6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its lack of compliance with this ordinance.
7. The presiding office (Chairperson of the Commission/Board) shall ask for a statement from the developer or his or her representative. Commission/Board members may ask questions following this statement. All questions and replies shall be directed through the presiding officer.
8. Following the developer's statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Commission/Board members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.
9. When all statements have been given, the presiding officer shall ask if any person who gave a statement wishes to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from Commission/Board members may follow each rebuttal or clarification.
10. The presiding officer (Chairperson of the Commission/Board) shall close the public hearing and call for discussion by the Commission/Board, resulting in action, as provided by this ordinance.

11. Written statements, plans, drawings, photographs, or other materials offered in support of statements at a hearing are part of that hearing's record and shall be retained by the county. Supporting materials shall be left with the administrator after each statement is made.

**Additional Hearing Procedures.** These procedures may be used without prior notice to assist in the conduct of large or controversial hearings.

1. The Commission/Board may impose time limits on the statements given in order to assure completion of its agenda.
2. The Commission/Board may require persons who wish to make a statement to register their intention to do so with the Commission before the hearing. The presiding officer shall use the register to call on persons to present their statements.

**Hearings To Be Taped.** As required by I.C. 67-6536, the Commission shall keep a transcribable tape recording of all hearings on file for at least six months after the final hearing, including appeals hearings on the development.

**Decision Record.** All decisions of the Commission and Board shall be reported in the form of findings of fact and conclusions of law, as required by I.C. 67-6535. The completed decision record shall include the application materials, any report prepared by or on contract for the administrator, and a performance standards checklist. The Commission report shall be presented in a form that can serve as a basis for the Commission's findings of fact. The completed performance standards checklist shall be considered to constitute the conclusions of law.

**Decision Deadline.** This section establishes the "reasonable time" for deliberation on applications by the Commission required by I.C. 67-6519. The Commission shall make a decision on any application for a permit within 60 days of the hearing, if a hearing is required by this ordinance, or within 60 days of the meeting at which the application first appeared on the Commission's agenda. Note that submission of an incomplete application requires no action by the Commission and that applications for which a large scale development study is required are not complete and subject to action within the deadline established here until that study is complete.

### **3-5 ENFORCEMENT**

**Failure to Obtain a Permit.** Whenever the Commission becomes aware of an activity for which a permit is required by this ordinance, but for which a permit has not been approved, they shall notify the occupant (and owner, if they are not the same) to immediately cease all unpermitted activity. Notice shall be given by posting on the site and/or first class mail. If the unpermitted activity does not cease, the Commission shall ask the prosecuting attorney to take immediate action, as authorized by I.C. 67-6527, to end the unpermitted activity and, if a permit is not subsequently issued, to require restoration of the site to its original condition. Required restoration shall include restoration of vegetative cover where sites have been graded in violation of this ordinance.

**Certificate of Compliance.** A certificate of compliance shall be issued before any subdivision is offered for sale, lease, or occupancy, sold, leased, or occupied or before any development is occupied. A certificate of

compliance indicates that an on-site inspection has shown that the development complies with this ordinance, including any conditions imposed upon its approval. Occupancy of a development without a certificate of compliance shall be a violation of this ordinance. Issuance of a certificate of compliance shall not be construed as approval of any violation of this ordinance that may have been discovered during the inspection.

**Temporary Certificate of Compliance.**

1. A temporary certificate of compliance may be issued to permit temporary use of a structure in cases where weather prevents the prompt completion of such required improvements as landscaping. No temporary certificate of compliance shall be issued for more than 180 days.
2. A temporary certificate of compliance may be issued for the use of one manufactured home or recreational vehicle as temporary living quarters while a single family dwelling for which a permit has been approved pursuant to this ordinance is being constructed.
  - A. No such certificate shall be issued, and no such occupancy permitted, until an approved sewage disposal system has been installed, and the temporary living quarters connected to that system.
  - B. The temporary certificate of compliance expires with the permit and the temporary living quarters shall be removed before a certificate of compliance can be issued for the completed single family dwelling.

**Enforcement Actions.** The process for enforcement of these regulations shall be as described here.

1. The Commission shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and/or posting on the site. The notice shall describe the violation, cite the section/s of the ordinance being violated, and order the occupant to attain compliance within 15 days.
2. Any person who receives a notice of violation may request inspection by the Commission to show that compliance has been attained within 30 days allowed, or:
  - A. File a written request with the Commission or for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 days and culminated by an inspection to show that compliance has been attained;
  - B. File an appeal of the Commission's notice, following the appeals procedure.
3. The Commission shall ask the prosecuting attorney to commence legal action, as authorized by I.C. 67-6527, against any occupant or owner who fails to attain compliance within the specific time, or to show, on appeal, that a violation has not occurred.

**Public Endangerment.** The enforcement procedure provided here may be accelerated when the Commission finds that public health and safety could be endangered by violation. In such cases, the Commission shall ask the prosecuting attorney to take immediate action to end the danger to public health and safety.

**Penalties.** Violations of this ordinance shall be a misdemeanor, punishable by a fine in any amount not exceeding \$300.00, or by imprisonment for a period of not longer than 30 days, or by both fine and imprisonment. Each day in which a violation continues shall be considered a separate offense.

### **3-6 AMENDMENTS**

**Amendments.** Any person may petition for the amendment of the comprehensive plan or Development Code. The amendment procedure shall be as described here and in I.C. 67-6509 or I.C. 67-6511, respectively.

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the Commission.
2. The Commission shall place a hearing on the application on the agenda of the next regular Commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for an amendment shall be as set by I.C. 67-6509 or I.C. 67-6511(b).
3. The Commission may contract with a planner for professional review of the application, with the cost of that review being covered by the developer. Such reviews shall be prepared in the form of a written report submitted to the Commission for use at the hearing. The Commission shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
4. The Commission shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the developer or a representative is not present.
5. In the case of proposed plan amendments, the Commission shall determine whether the proposed amendment is consistent with the public interest, and recommend that the Board approve or disapprove it accordingly. In the case of proposed ordinance amendments, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, and recommend that the Board approve or disapprove it accordingly.
6. The commission shall convey the Commission's recommendation to the Board and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular board meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice shall be provided in the same manner as for the hearing before the Commission.
7. The Board shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the person who petitioned for the amendment or a representative is not present.
8. The Board shall determine whether the proposed amendment is consistent with the public interest and/or the comprehensive plan and approve or disapprove it accordingly.
9. The board shall notify the developer and interested parties within 10 days. No amendment to this ordinance shall become effective until that amendment has been adopted as an ordinance and published as required by law.

### 3-7 VACATION OF PLATS

**Vacation of a Plat.** Vacation of any plat, or any portion of a plat, may be proposed, following the procedure provided here and in I.C. 50-1306A. Note that the county may take no action on a proposed vacation within the impact zone of the incorporated boundaries of the City of Malad until the vacation has been approved by the city.

1. The petition for vacation and the required fee shall be filed with the Commission, who shall place consideration of that petition on the agenda of the next regular commission meeting at which time will permit its proper review.
2. The Commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the board.
3. The Commission shall notify the Board and the petitioner of the Commission's recommendation within 10 days, and unless the petitioner withdraws the petition, place a hearing on the proposed plat vacation on the agenda of the next regular board meeting for which the notice requirements can be met, and at which time will permit its proper review.
4. Notice of the hearing shall be provided, as follows: a) by first class mail; to all owners of property within, and within 300 feet of, the boundaries of the plat proposed to vacated, at least 10 days before the hearing; and b) by newspaper publication; two successive legal notices in the official newspaper, with the final newspaper notice appearing at least seven days prior to the hearing.
5. The Board shall conduct a hearing on the proposed plat vacation. No petition shall be reviewed if the petitioner or a representative is not present.
6. The Board shall accept or reject the petition for vacation, with acceptance based on findings that:
  - A. The vacation will not eliminate safe road access to any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat;
  - B. The vacation will not eliminate easements or rights-of-way used for utilities serving any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat; and
  - C. All owners of property or property interests within the plat proposed to be vacated have consented, in writing, to the vacation.
7. The Commission shall notify the petitioner and interested parties of the Board's decision within 10 days.

## CHAPTER 4

### SECTION:

#### 4-1 ESTABLISHMENT OF ZONING DISTRICTS

**What This Chapter Does.** This chapter creates zoning districts and overlay zoning districts for use in the county and adopts an official map of those districts. It also provides rules for the interpretation of zoning district boundaries.

**Zoning Districts.** The following zoning districts are established to implement the comprehensive plan: Airport Overlay and Floodplain.

**Official Zoning Map.** The “Official Zoning Map of Oneida County” when adopted, by reference, will become part of this ordinance. A dated copy of that map, certified to be correct by the signature of the chairman of the Board, shall be maintained for public inspection at the office of the Board.

#### **Zoning District Boundaries.**

1. Zoning district boundaries shall be as shown on the “Official Zoning Map of Oneida County”, except that the boundaries of the Floodplain Overlay Zoning District, which shall be as shown on the Federal Emergency Management Agency’s Flood Insurance Rate Maps of Oneida County, Idaho.
2. Any person who disputed the location of a zoning district boundary, as interpreted by the Commission, may appeal the decision using the appeals procedure.

## CHAPTER 5

### SECTION:

- 5-1 Performance Standards For Development Review
- 5-2 Performance Standards For Maintaining Natural Assets
- 5-3 Performance Standards For Maintaining Agricultural Resources and the Farm Economy
- 5-4 Performance Standards for Assuring Land Use Compatibility
- 5-5 Performance Standards Assuring Provision of Adequate Facilities and Service
- 5-6 Additional Performance Standards for Large Scale Development
- 5-7 Performance Standards for Maintaining and Protecting Existing Commercial Operations/Developments
- 5-8 Additional Performance Standards for Subdivisions and Manufactured Home Parks

### 5-1 PERFORMANCE STANDARDS FOR DEVELOPMENT REVIEW

**What This Chapter Does.** This chapter explains the nature of the performance standards that are used as a basis for the review of Class I and Class II permit application.

**Absolute Performance Standards:** Compliance Is Required. The absolute performance standards require or prohibit certain kinds of performance in developments. Failure to comply with any absolute performance standard shall result in rejection of the application for a permit.

**Absolute Performance Standards: Exceptions.** The only exceptions to the requirement for compliance with all absolute performance standards shall be those specifically provided in this ordinance and those allowed by variance.

**Relative Performance Standards.** Relative performance standards address complex issues for which absolute standards are inappropriate. They encourage or discourage certain kinds of performance in developments through the use of the point-scoring system described here.

1. Importance Factors. This ordinance assigns an importance factor to each relative performance standard. Importance factors range from "1" to "5" and reflect the importance of the performance standard to which they are assigned in implementing the comprehensive plan and in comparison with other relative performance standards. An importance factor of "1" is assigned to the least important relative performance standards and an importance factor of "5" to the most important. Importance factors may be changed by amendment of this ordinance only.
2. Point Assignment. Point assignment provides a systematic technique for assessing the implementation of the relative performance standards. A positive point assignment reflects the successful implementation of a relative performance standard, while a negative point assignment reflects a failure to implement a relative performance standard. Points shall be assigned to each development on the basis of its performance on each relative performance standard using these guidelines:
  - A. -2 points shall be assigned where there is essentially no effort to implement the performance standard;

- B. -1 points shall be assigned where there is an inadequate attempt to implement the performance standard;
  - C. 0 points shall be assigned where the performance standard is not relevant OR there is only minimally adequate implementation of the performance standard;
  - D. +1 points shall be assigned where there is *some* successful effort to implement the performance standard; and
  - E. +2 points shall be assigned where there is a successful effort to implement the performance standard.
  - F. Relative performance standards may be designed to use the full point range described here or strictly to discourage (using only negative point assignments) or encourage (using only positive point assignments) certain kinds of performance.
3. Score. The importance factor of each relative performance standard is multiplied by the points assigned to obtain a score.
  4. Cumulative Score. Scores on individual relative performance standards are summed to calculate a cumulative score. If that cumulative score is not "0" or greater, the application for a permit shall be disapproved.

## 5-2 PERFORMANCE STANDARDS FOR MAINTAINING NATURAL ASSETS

**Water Quality.** All developments shall demonstrate continuing compliance with state and federal water quality regulations.

**Runoff and Erosion Control.** A professionally prepared runoff and erosion control plan shall be implemented by developments where a cumulative total of more than one acre of land with a slope of more than 8% will be disturbed, or where more than 20,000 square feet of contiguous impervious surfaces will be created. The plan shall:

1. Identify runoff and erosion hazard areas of the site;
2. Identify areas and facilities, both on and downstream from the site, that are vulnerable to damage from accelerated runoff or erosion;
3. Show how the retention of existing vegetation will be maximized and land disturbance minimized;
4. Show how the area disturbed by construction at any one time will be minimized and how disturbed areas will be stabilized during the construction period;
5. Show how disturbed areas will be promptly, permanently stabilized by revegetation or structural techniques;
6. Show how runoff velocities will be minimized and drainage ways will be prepared to handle any acceleration or increase of runoff;

7. Show how any additional runoff generated will be retained on-site and absorbed, evaporated, or released from the site at a rate not exceeding the pre-development rate of release;
8. Show how sediment resulting from accelerated soil erosion will be retained on site; and
9. Show how water quality in adjoining or nearby streams and wetlands will be protected by retention of existing vegetation, installation of vegetative filler strips, and similar means.

**Wetlands.**

1. All developments shall demonstrate compliance with state and federal wetland's protection requirements.
2. The open space use of wetlands and/or their enhancement, to a higher functional value, shall be encouraged. -2/+2 Positive points for wetlands enhancement shall be assigned only where the acreage of wetlands enhanced or restored is greater than the area disturbed. Wetlands may be modified for necessary utility lines, roads, and trails without a negative point assignment, provided that the required state and federal permits are obtained.

**Stream Corridors/Floodplain.** The stream corridor includes the 100 year floodplain (or special flood hazard area), any associated wetlands, and any associated areas where riparian vegetation is dominant.

1. Minimum development setbacks shall be required along all streams. The use of buffers created by this requirement shall be compatible with the protection of stream corridor value.
  - A. Roads and utility lines may cross stream corridors, but the number and width of such crossings shall be minimized. Irrigation works (dams, head gates, ditches, etc.) may be placed in stream corridors, as may hydroelectric power generation facilities, upon issuance of a Class II permit, and all required state and federal permits.
  - B. Stream corridor buffers may be left in, or restored to, native riparian vegetation or planted as lawns. They may not be developed, except as permitted in A. above.
  - C. The development setbacks required here shall be clearly shown on final site plans and final subdivision plats. In subdivisions, the setback line shall be located by a permanent monument on each lot line that runs more or less perpendicular to the stream and at the center of each lot that borders the stream.
2. The open space use of stream corridors and retention or restoration of riparian vegetation shall be encouraged. -2/+2 Compliance with the minimum development setback requirements shall receive an award of "0" points only. Positive points may be awarded for:
  - A. Retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or
  - B. Retention of functional riparian vegetation, including its protection during construction, on at least 90% of the stream frontage. "Functional" riparian vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic functions on which the stream corridor protection strategy of the comprehensive plan is based.

**MINIMUM STREAM CORRIDOR SETBACKS**

STREAM/STREAM CHANNEL TYPE	REQUIRED SETBACK (BOTH SIDES OF STREAM)
Well-Defined Channel	60 feet from center line of stream or 50 feet from the average annual high water mark, whichever is greater
Poorly Defined or Braided Channel	50 feet from average annual high water mark

**Slopes.** No development shall be permitted on slopes of 30% or more. No development shall be permitted on other slopes identified as unstable, unless a geotechnical engineer certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.

**Wildfire Hazards.** All developments that are in or adjacent to areas of flammable bushy vegetation shall be encouraged to:

1. For Individual Structures, *within the subdivision*, including All Single Family Dwellings: Provide a fire defensible space of at least 30 feet around the home or structure. -2/+2 A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed. Maintenance of the defensible spaces is a requirement for continuing compliance with this ordinance.
2. For Subdivisions: Thin or remove woody brush and remove dead fuel from the entire site, and provide appropriate perimeter and, in larger developments, internal fuel breaks. -2/+2. A fuel break is a strategically located strip of land in which trees and woody brush has been thinned and fuel removed to create an open “park-like” appearance. Fuel breaks either include roads or are accessible to fire fighting apparatus. Fuel breaks are generally at least 200 feet in width, with the width increasing on slopes over 10%.

**Native Plants.** The use of native plants propagated from local stock in the re-vegetation and buffering efforts required by this ordinance shall be encouraged. 0/+2, Air Quality. All developments shall demonstrate continuing compliance with state and federal air quality regulations.

**5-3 PERFORMANCE STANDARDS FOR MAINTAINING AGRICULTURAL RESOURCES AND THE FARM ECONOMY**

**Protecting Irrigation Systems.** All developments including or adjoining irrigated lands, or including adjoining any irrigation works (diversions, head gates, canals, pumps, drains, etc.) shall be reviewed by the responsible irrigation entity. No development shall be permitted to adversely impact the operation of any irrigation system and all developments shall comply with the specific performance standards established here.

1. All subdivisions shall demonstrate compliance with I.C. 31-3805, as amended, which provides for the approval of subdivisions by irrigation entities (I.C. 31-3805). The subdivider shall provide a means whereby irrigation water shall be made available to all lots by the transfer of water rights and the installation of a central irrigation system maintained by a community association or shall have the land withdrawn from the assessments of the applicable irrigation district or company prior to plat approval. All gravity flow ditches through which water will continue to flow within a subdivision after its completion, whether to serve as irrigation water and/or waste flow to or from any adjacent property, shall remain in use and be piped with a minimum pipe size of at least eighteen inches (18") and shall be approved by a certified/professional engineer. Irrigation systems installed in subdivision to achieve compliance with I.C. 31-3805 are subject to requirements imposed on other subdivision improvements.

2. No development shall channel storm water or snow melt runoff into any irrigation system without written consent of the responsible irrigation entity.

**Protecting Agricultural Operations.** Development of other uses in farming areas should not interfere with existing agricultural operations, including the normal operations of dairies, feedlots, and other agricultural activities that may, at times, be perceived as a nuisance by inhabitants of nearby residences. Farming areas include all portions of the Oneida County Zoning District except the incorporated city and areas of city impact shown in the comprehensive plan, and existing residential subdivisions. No building permit for a residence in a farming area shall be issued until a resource management agreement has been recorded by the owner. The model resource management agreement is reproduced in Appendix A.

**Agricultural Industries.** While the protection of existing agricultural operations is an important goal of this ordinance and the comprehensive plan, it is also recognized that new agribusiness developments in certain areas could have an adverse impact on existing nonagricultural uses. For that reason, new dairies and feedlots with a capacity of more than 500 head, but less than the amount required by the CAFO Ordinance, and new agricultural processing and wholesaling operations are classified as industrial rather than agricultural uses, and shall be required to comply with the performance standards adopted in this ordinance.

**Weed Control.** As required by I.C. 22-2471, "It shall be the duty and responsibility of all persons and nonfederal agencies to control noxious weeds on land and property that they own."

#### **5-4 PERFORMANCE STANDARDS FOR ASSURING LAND USE COMPATIBILITY**

**Potential Nuisances.** All potential nuisances and hazards shall be mitigated by appropriate means.

1. No development shall create excessive levels of noise or vibration beyond its property line. Excessive noise, as measured at the property line, exceeds the standards of Chapter 14.
2. No development shall create electrical interference that adversely affects other uses.
3. Solid waste shall be stored in an enclosed building or containers and handled in a manner that does not:
  - a) attract rodents, flies, or other animals;
  - b) generate odors perceptible beyond the property line or liquid runoff; or
  - c) permit the blowing of paper and other lightweight waste.
4. Industrial or commercial solid waste handling and storage areas shall be effectively screened from the public view by enclosure in a building location on the site, or the construction of a fence or wall. This includes expansions of existing solid waste handling and storage areas. Landscaped buffers for these areas are encouraged.
5. No development shall channel storm water or snow melt runoff in a way that adversely impacts neighboring properties or public ways.
6. ~~All subdivisions shall have a permanent solid board, metal chainlink, masonry, or other similar fence at least 4'6" in height installed along all subdivision boundaries. In the event of lot sizes greater than two (2) acres, this requirement may be waived by the Commission and a fence constructed according to standards in Appendix M. All fences constructed are subject to the requirements imposed on other subdivision improvements. Upon installation, full responsibility for the fence shall become that of the lot owner.~~

6. *All Class II developments shall have a permanent, substantial fence at least 4'6" in height installed along all development boundaries, which can be satisfied by construction of a fence according to standards in Appendix D. All fences constructed are subject to the requirements imposed on applicable subdivision improvements. Upon installation, full responsibility for the fence shall become that of the lot owner.*

**Hazardous Substances.** Any development that is, or that may reasonably be expected to be, subject to the reporting requirements of EPCRA (the Emergency Planning and Community Right-To-Know Act of 1986) shall demonstrate continuing compliance with state and federal requirements for the storage and handling of hazardous substances.

~~Livestock on Residential Lots. The keeping of livestock on residential lots shall be restricted to two horses, pigs, or cows, or ten llamas, sheep, or goats (including their offspring until weaned) or 25 chickens per acre. No livestock shall be kept on lots of less than one acre. Temporary keeping of stock during local big game hunting seasons shall be exempt.~~

**Home Occupations.** Home occupations shall comply with the detailed performance standards of Chapter 3 Permit Procedures.

**Land Use Compatibility.** Compatibility with neighboring land uses shall be encouraged. Compatibility shall be assessed using the following relative performance standards.

1. Is the proposed lot coverage and landscaping compatible with neighboring uses? -2/1 For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage of less than 50% is compatible, provided that the setbacks as defined in the Setback are maintained from all property lines or that the setbacks comply with A. or B., below:
  - A. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Setback Table, new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that:
    - I. The subdivision was not vacant on the effective date of this ordinance;
    - II. Existing dwellings have observed the setbacks provided by the covenants;
    - III. The front setback along arterial roads will not be reduced below 50 feet; and
    - IV. No setback will be insufficient for access by fire fighters.
  - B. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in the Setback Table may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate compatibility with this exception by providing the Commission with a scale drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the Commission may find they are compatible, provided that: the front setback along arterial roads is not reduced below 50 feet; and no setback will be insufficient for access by fire fighters.

C. Setbacks on private roads shall be a sufficient distant so as to accommodate a 60 foot right-of-way should the private road become a county road. Distances shall be calculated based on the width of private easement and will be a minimum of 10 feet up to a maximum of 100 feet.

YARD	SETBACK
Front Yard, All Roads & Streets	50 Feet
Side Yard, Along Streets	50 Feet
Rear Yard	10 Feet
Side Yard	10 Feet

Note: AD setbacks are measured at right angles, from the nearest point on the property line to the foundation or to any above grade projection of the structure that extends more than three feet beyond the foundation.

2. Is the proposed building height compatible with neighboring uses? -2/0 For single family dwellings, subject to Class I permit review only, it shall be assumed that any building height of less than 30 feet is compatible.
3. Is the proposed building bulk compatible with neighboring uses? -2/1
4. Is the proposed activity level compatible with neighboring uses? -2/1 The level of activity shall be measured by the projected traffic generation and noise levels, proposed hours of operation, proposed size and number of signs, and similar factors.
5. Does the proposed development block scenic views from existing uses or public recreation areas? -2/0

**Gravel Mining.** Gravel mining operations shall comply with the detailed performance standards of Chapter 19.

**Buffering.**

1. Installation of landscaped buffers between potentially incompatible land uses and along public roads in accordance with Chapter 15 shall be encouraged. -2/+2 Buffers along stream corridors are required.
2. Retention of existing, mature vegetation that serves buffering functions shall be encouraged. -2/+2

**Connections.** All developments shall be designed to optimize functional connections with adjoining developments, including shared access to arterial roads, shared parking and service access, shared buffers and open space, and shared pedestrian circulation. -2/+2

**Signs.** Signs shall comply with the detailed performance standards of Chapter 13.

**5-5 PERFORMANCE STANDARDS ASSURING PROVISION OF ADEQUATE FACILITIES AND SERVICE**

**Central Water Supply.** For subdivisions, provision of a central domestic water supply system that meets state design and construction requirements shall be encouraged. 0/+2

**Fire Fighting Water Supply.** Provision of a water system supply system that includes properly spaced fire hydrants capable of delivering adequate fire fighting pressures and flows throughout the development shall be encouraged. 0/+2

**Easements.** Easements for culinary water, sewer, power, irrigation water, storm water drainage, and other utilities shall be provided by the subdivider and designated on the plat as required to accommodate the utility systems in the subdivision. Where natural drainage channels, interceptor systems, or flood hazard zones cross the subdivision, the subdivider must obtain the necessary permits to modify such drainage facilities, and designate the channels, systems, or flood hazard zones, and any associated restrictions of the plat.

**Individual Water Supplies.** Where reliance on individual water supplies is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented experience with existing wells at geologically similar, neighboring sites or records of on-site well tests.

**On-Site Sewage Disposal.** All on-site sewage disposal systems shall be sited, designed, and constructed in compliance with state standards. This requirement includes nonconforming uses applying for a Class II permit for a change in occupancy or replacement.

**Private Utilities.**

1. Written certification that capacity to serve the proposed development is available shall also be obtained from all proposed private utilities.
2. Provision of underground power and telephone utilities in subdivisions shall be encouraged. 0/+2  
Underground utilities shall be provided to each lot before road surfaces are constructed. Only one crossing of county roads or state highways shall be allowed per subdivision.
3. Property owners may choose an alternative power source (solar, wind, hydro, or generator). In such cases, the power source must be engineered to adequately supply the electrical load. Engineering documentation must be provided to Oneida County.

**Construction in Easements.** No building shall be placed in any utility or irrigation easement, public or private. Wire or rail fences, or solid wood fences with a removable section across the easement may be constructed across easements (note that some utilities and irrigation entities may prohibit the fences permitted by this ordinance).

**Safe Access.**

1. Points of access to public roads shall be constructed in compliance with the standards of Appendix F. Developments with points of access to a state or federal highway shall obtain approval for those points of access from the Idaho Transportation Department.
2. All developments are encouraged to minimize the number of points of access to arterial roads and highways. -2/1
3. All developments containing six or more dwelling units, or with a distance of more than 660 feet from a public road which is maintained on a year round basis, shall provide a minimum of two points of ingress and egress from the public road or highway serving the development. "Loop" systems that return to a single point of access to the public road or highway may be acceptable for relatively small developments (500 or less projected average daily traffic).
4. All developments are encouraged to provide provisions that will eliminate backing into arterial roads or highways. -2/+2

5. Subdivider shall provide a point of access constructed in compliance with the standards of Chapter 16 for each lot in a subdivision. Points of access are subject to the requirements imposed on other subdivision improvements.

**Private Rights of Way.** Residential development on private rights of way will be allowed. Each lot in a development will have a safe all-weather road access. The design and construction of roads shall be in compliance with the detailed performance standards of Chapter 16.

1. Development Standards:

- A. Right of Way Width: The minimum right of way width shall be the standard in Chapter 16.
  - B. Interference with Development: Rights of way must be located so that they do not interfere with future development.
  - C. Care and Maintenance: All development on private rights of way of two (2) lots or more shall establish a homeowner's association or similar organization that will be responsible for the care and maintenance of the right of way and any common property or utilities. A complete set of protective covenants shall outline the care and maintenance of all private utilities, street improvements and common spaces. The protective covenants shall also set forth the funding mechanism for that maintenance.
2. Guarantee of Improvements: All improvements required by this title or by the Planning and Zoning Commission shall be guaranteed in a manner which is consistent with the provisions of this title.
3. Building Permit Issuance: No building permit for any structure within a development on a private right of way shall be issued until:
- A. Sewers and Storm Drains: All required public or commonly owned sanitary sewers, storm drains, and culinary water lines have been installed and are operable.
  - B. Easements: All easements and right of way of utilities and access have been recorded in the office of the Oneida County Recorder.
  - C. Covenants: The protective covenants have been recorded in the office of the Oneida County Recorder.
  - D. Guarantee of Improvements: The guarantee of improvements not already installed and accepted by their respective agencies has been provided to the Board.

**Public Access.**

1. No development shall eliminate historically existing public access through private lands to trail heads on public lands.
2. Provision of public access to public lands or water resources shall be encouraged. 0/+2 The access provided may be limited to foot travel only.

**Fire Protection.**

1. Building heights shall be limited to those that can be effectively protected by existing fire fighting apparatus.
2. All developments not presently in the Oneida County Fire Protection District shall petition for addition to that district, as provided by I.C. 31-1404, et. seq.

**5-6 ADDITIONAL PERFORMANCE STANDARDS FOR LARGE SCALE DEVELOPMENT**

**Large Scale Development.** A large scale development is a residential or mixed use project that will contain 100 or more residential lots or units, or a commercial, industrial, or mixed use project that is projected to generate 500 or more trips per day.

1. Large scale developments shall provide additional public facilities necessitated by their development. Such facilities shall be provided in compliance with all requirements of this ordinance and may include: off-site runoff and erosion control measures; central sewage systems; off-site road improvements such as deceleration or acceleration lanes, left turn lanes, signs or signals, and bridges or culverts; solid waste transfer stations; emergency services buildings and apparatus, including fire engines or ambulances; and neighborhood parks (including space used for recreational trailers) at a rate of two acres per thousand population.
2. The public facilities needs of the large scale development shall be determined through a fact-finding process conducted by the Commission, at the expense of the developer. The Commission may retain planners and/or engineers to conduct this study, the purpose of which shall be to determine what new facilities needs may be attributed to the proposed development. The large scale development study process shall be conducted as follows:
  - A. The Commission shall determine whether a proposed development is a large scale development;
  - B. The Commission shall not schedule a hearing on an application determined to be for a large scale development, but shall place the initiation of a large scale development study on the agenda of the next regular board meeting; and
  - C. The Commission shall review the application at that meeting. If the Board confirms the Commission determination, the Board shall direct the Commission to begin a large scale development study.
  - D. Where a large scale development study is required, the developer shall place a deposit with the county in the amount provided in the resolution establishing fees for administration of this ordinance. The Commission shall retain appropriate professional assistance for the study, drawing against the required deposit as necessary. Unused funds shall be returned to the developer upon completion of the study.
  - E. The application shall be considered complete and a hearing scheduled only after completion of the large scale development study.

**5-7 PERFORMANCE STANDARDS FOR MAINTAINING AND PROTECTING EXISTING COMMERCIAL OPERATIONS/DEVELOPMENTS**

Development of residencies should not interfere with existing commercial operations/developments that may, at times, be perceived as a nuisance by inhabitants of nearby residences. No building permit for a residence in a commercial operations/development area shall be issued until a Commercial Operations/Development Management Agreement has been recorded by the owner. The agreement is shown in Chapter 14.

**5-8 ADDITIONAL PERFORMANCE STANDARDS FOR SUBDIVIONS AND  
MANUFACTURED HOME PARKS**

*Plat or Record of Survey Required for All Land Divisions. A record of survey or plat shall be required for all land divisions. Records of survey and plats shall meet all requirements of Title 50, Chapter 13 of the Idaho Code "Plats and Vacations" (I.C. 50-1301-1329), as amended, and all requirements of Chapter 17.*

## CHAPTER 6

### SECTION:

#### 6-1 AIRPORT OVERLAY ZONING DISTRICT

**What This Chapter Does.** The purpose of the Airport Overlay Zoning District is to provide for the safety of aircraft pilots and passengers and protect a substantial investment of public funds by assuring that land development and construction activities within the Airport Overlay Zoning District are compatible with the safe and continued use of the airport serving Oneida County/Malad City Airport.

**Height Limitation Zones.** The Airport Overlay Zoning District is composed of several height limitation zones, which include all land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces appurtenant to the Oneida County/Malad City Airport. These zones are shown on supplements to the Official Zoning Map of Oneida County. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation.

1. Utility Runway Visual Approach Zone. The inner edge of the approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
3. Horizontal Zones. The horizontal zone is established by swinging arcs of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. Conical Zone. The conical zone is the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

**Height Limitations.** No structure or tree will be allowed to exceed the height limitations established here.

1. Utility Runway Visual Approach Zone. Slopes twenty feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Transitional Zones. Slope seven feet outward for each foot upward beginning at the side of, and at the same elevation as, the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation. In addition, there are transitional sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
3. Horizontal Zone. Is 150 feet above the airport elevation.
4. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the edge of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.
5. Exception from Height Limitations. Nothing in this ordinance shall prohibit the construction or maintenance of any structure of 30 feet or less in height, or the growth of any tree to a height up to 30

feet above the surface of the land within the horizontal and conical zones.

**Use Restrictions.** No use within any zone established by this chapter shall create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, resulting in a glare to the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or in any way endanger or interfere with the operation of aircraft.

**Permits: Additional Requirements.** Within the Airport Overlay Zoning District, permit requirements shall be expanded to include the planting of any tree with a growth habit of more than 30 feet and the construction of any building or structure that is more than 30 feet in height and is exempted from the requirement for a permit. This includes agricultural outbuildings and similar accessory structures, except as follows:

1. Within the horizontal and conical zones: No permits shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.
2. Within the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway: No permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.
3. In the areas lying within the limits of the transition zones, but beyond the perimeter of the horizontal zone: No permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

**Variations: Additional Requirements.** Any application for a variance of the height limitations established in this chapter shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

#### **Nonconforming Uses: Additional Requirements**

1. Nonconforming uses within the Airport Overlay Zoning District may include trees and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.
2. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted; but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of this ordinance.

**Obstruction Marking and Lighting.** The approval of any application for a permit or variance may be conditioned on the installation, operation, and maintenance, at the owner's expense, of the markings and/or lights necessary to indicate the presence of an obstruction to aircraft pilots.

## CHAPTER 7

### SECTION:

#### 7-1 FLOODPLAIN OVERLAY ZONING DISTRICT

**What This Chapter Does.** This chapter establishes the Floodplain Overlay Zoning District and detailed performance standards for development in that district.

**Finding of Fact:** Whereas, Finding of Fact...The areas of special flood hazard identified by the Federal Insurance Administration for the County of Oneida dated September 1985, and any revisions thereto, is hereby adopted by reference and declared to be part of this ordinance.

#### *Division I - Administration of Federal Flood Insurance Program Requirements*

**Additional Permit Requirements.** Development in the Floodplain Overlay Zoning

**District shall be by permit only.** For the purposes of this chapter, development shall include any activity that may potentially affect flood flows. This includes all land disturbances (including clearing, grading, and the construction of fills), as well as building construction. Some developments that are exempt from permit requirements in other areas must obtain a permit in the Development in the Floodplain.

**Stream Corridors.** The stream corridor performance standards of this ordinance impose requirements that are more stringent than those of this chapter. The most stringent requirements apply.

**Warning/Disclaimer of Liability.** All applications for permits in the Floodplain Overlay Zoning District shall be accompanied by a signed and dated acknowledgment stating:

1. I understand that, while the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, larger floods can and will occur.
2. I understand that the projected flood levels at my development site may be increased by man-made or natural causes.
3. I understand that this ordinance does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damage.
4. I understand that this ordinance does not create any liability on the part of Oneida County, of any officer or employee thereof, or on the part of the Federal Insurance Administration for flood damages.

**Additional Application Requirements.** All applications for permits in the Floodplain Overlay Zoning District shall be accompanied by the following information:

1. Elevation of the lowest floor, including basements, of all proposed buildings.
2. Elevation to which any existing or proposed building has been or will be flood proofed.
3. All buildings other than single family dwellings certification by an engineer or architect that the flood proofing methods used comply with these performance standards.

4. Where alteration of a watercourse is proposed: a description of the extent to which the watercourse will be altered or relocated as a result of the proposed development, and proof that all state or federal permits required for that alteration have been approved. The developer shall provide the base flood elevation data for all subdivisions or other developments that include 50 or more lots or dwelling units, or five or more acres.
5. All subdivision proposals shall be consistent with the need to minimize flood damage. Where base flood elevations data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or acres (whichever is less).

**Additional Duties.** The Commission chairperson shall serve as local floodplain ordinance administrator and perform the following duties:

1. Determine that all required state and/or federal permit have been obtained before reviewing any application for a permit in the Floodplain Overlay Zoning District.
2. Where base flood elevation data are not provided by FEMA (Federal Emergency Management Agency): Obtain and reasonably utilize any base flood elevation and floodway data available from state, federal, or other sources as a basis for the administration of this chapter.
3. Maintain a record of the actual elevation of the lowest floor of all new or substantially improved buildings, and whether or not the building contains a basement.
4. Maintain a record of flood proofing certifications. Notify downstream communities and the Idaho Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of that notification to the FEMA.
5. Maintain records of appeal actions and report all variances allowed to FEMA.

### ***Division 2 - Performance Standards for Special Flood Hazard Areas***

**Anchoring.** New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchors.

**Construction Materials and Methods.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### **Utilities and Solid Waste.**

1. All new and replacement water supply systems including sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
2. Commercial or industrial solid waste handling and storage facilities shall not be located in the Floodplain Overlay Zoning District.

**Hazardous Substances.** The storage and handling of hazardous substances in the Floodplain Overlay Zoning District shall be prohibited.

**Site Planning.** Design and construction of all subdivisions and uses for which a Class II permit is required shall minimize flood damage. Utilities shall be located and designed to minimize flood damage, and the site shall be graded and drained to guide floodwater around and away from existing and/or proposed buildings.

**Residential Development.** Standards 1 and 2 apply only in areas where base flood elevation data have been provided by FEMA.

1. Construction or substantial improvement of any dwelling shall result in the lowest floor being elevated to or above base flood elevation.
2. Fully enclosed areas below the lowest floor are prohibited, except where designed to automatically equalize hydrostatic forces on exterior walls by allowing for entry and exit of floodwater. Designs for meeting this requirement shall either be certified by an engineer or architect, or meet the following minimum standards:
  - A. A minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, shall be provided; and
  - B. The bottom of such openings shall be no higher than one foot above grade. Such openings may be equipped with screens, louvers, or other coverings or devices, provided they permit automatic entry and exit of floodwater.
3. Where base flood elevation data are not available through the flood insurance study or from another source, applications shall be reviewed to assure that the proposed construction will be reasonably safe from flooding. This determination of reasonableness shall be based on evidence submitted with the application by the developer, including historical flood records, photographs of past flood events, and similar documentation. The minimum elevation above grade in such cases shall be two feet.
4. Manufactured homes that are placed, replaced, or substantially improved within the Floodplain Overlay Zoning District shall be elevated on and securely anchored to a permanent foundation so that the lowest floor is at or above base flood elevation. Manufactured home (mobile home) parks shall not be permitted in the Floodplain Overlay Zoning District.
5. Recreational vehicles placed on sites are required to either:
  - A. Be on the site for fewer than 180 consecutive days.
  - B. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

**Nonresidential Development.** Construction or substantial improvement of any nonresidential building shall result in the lowest floor being elevated to or above base flood elevation or, together with the attendant utility and sanitary facilities, shall:

1. Be flood proofed so that below base flood level the building is watertight with walls substantially impermeable to the passage of water.
2. Be designed and constructed to resist hydrostatic and hydrodynamic loads and the effects of buoyancy.
3. Present a certification from an engineer or architect that the design and methods of construction comply with accepted standards of practice for meeting the performance standards of this ordinance.
4. Meet the performance standard above for enclosed spaces below the lowest floor. Developers flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level.

**Floodway.** The floodway is the channel of a watercourse and any adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The floodway is a hazardous area due to the velocity of flood waters which carry debris and potential projectiles and the high erosion potential. Encroachments into the floodway, including fill, new construction, substantial improvements, and other development, shall be prohibited unless an engineer or architect certifies that the encroachment will not result in any increase in the flood level during the base flood discharge.

**Maintenance of Flood Capacity.** Continuing maintenance to prevent the reduction of flood carrying capacity in altered or relocated watercourses shall be required.

**Areas of Shallow Flooding.** In these areas, base flood depth ranges from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

1. Construction and substantial improvement of dwellings shall result in the lowest floor being elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or to at least two feet, where no depth number is specified.
2. All new construction and substantial improvement of nonresidential buildings shall:
  - A. Be graded and drained to guide floodwater around and away from existing and/or proposed buildings; and
  - B. Have the lowest floor elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or, where no depth number is specified, to at least two feet above the highest adjacent grade; or together with its appurtenant utility and sanitary facilities, be flood proofed so that any space below that level is watertight, with substantially impermeable walls and structural components capable of resisting hydrostatic and negative direct current loads and the effects of buoyancy. Compliance shall be certified by an engineer or architect.

*Division 3 - Variances in the Floodplain Overlay Zoning District*

**Additional Finding for Variances.** The approval of any variance in the Floodplain Overlay Zoning District will not result in increased flood levels, a threat to public safety, or extraordinary public expense.

**Notice of Variance.** Where a variance of the requirements of this is approved, the Commission's notice of the decision shall clearly state that the county is not liable for any flood damages that result from the variance. Where a variance of the elevation requirements is approved, the administrator shall also notify the developer that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

**SECTION:**

**8-1 REQUIRED IMPROVEMENTS: INSTALLATION AND MAINTENANCE**

**What This Chapter Does.** This chapter requires the installation of improvements in subdivisions, manufactured home parks, and other developments at the developer's expense, sets improvement standards, permits the phased installation of improvements pursuant to formal development agreements, and requires the perpetual maintenance of required improvements.

**Required Improvements Defined.** A required improvement is any improvement required for compliance with any absolute performance standard of this ordinance or to be assigned a score of "0" or better on any relative performance standard of this ordinance. Required improvements specifically include (but are not limited to):

1. Any runoff and erosion control measures, including plantings, required in an approved runoff and erosion control plan.
2. Any open space or recreational area or facilities required of a large scale development.
3. Landscaped buffers and any other improvements required to mitigate a nuisance.
4. Water, sewer, and other utilities, including any extension of lines required to serve the development.
5. Off-street parking and loading areas.
6. Roads, including bridges, culverts, and street identification, and traffic control signs.

**Installation at Developer's Expense.** The installation of all required improvements shall be at the developer's expense.

**Standards for Required Improvements.** All required improvements shall be installed in compliance with this ordinance and any design and engineering standards separately adopted by the county or other agencies responsible for providing services to the development.

**Time of Installation/Development Agreements.**

1. Developers may install all required improvements before a final plat is recorded or the development is offered for lease or sale, leased, sold, or occupied.
2. Developers may elect to record final plats of the development in phases and/or offer phases of the development for lease, sale, or occupancy before all required improvements are installed. Phasing shall be permitted pursuant to a development agreement that:
  - A. Incorporates a conceptual site plan of the entire development (the site plan used as a basis for permit approval) and a detailed site plan and construction drawings of the initial phase/s.
  - B. Identifies all required improvements in the initial phase/s and establishes their estimated cost.

- C. Sets a schedule for the completion of the required improvements in the initial phases and an anticipated schedule for future phases.
- D. Guarantees completion, repair, and one year's maintenance of all required improvements in the initial phase/s and provides a process for the submission of detailed plans, cost estimates, and the guarantee of improvements in future phases.
- E. Provides a process by which the county may, if necessary, complete required improvements using the guarantee/s provided.
- F. Provides a process by which either party may request re-negotiation of the development agreement.
- G. Provides a process by which the development agreement may be transferred, with county approval, to the developer's successors.
- H. Provides that the development agreement and any vested rights it confers shall be void if the county is required to "call" a guarantee to complete required improvements or if the anticipated schedule required by C, above, is not met or renegotiated. The developer shall have the right to re-negotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within 90 days after failure to initiate or complete a phase as scheduled.
- I. An "initial" phase is any phase anticipated to begin within 18 months. The anticipated schedule may set times for the initiation or completion of a phase in terms of reasonable ranges of no more than 12 months.

**Effect of Development Agreement.** The effect of a development agreement shall be to create vested rights in the conceptual site plan, as it was approved. All such rights expire with the development agreement. Development agreements do not insulate developments from changes in state or federal regulations or changes in building and fire codes.

**Guarantees.** Completion of the improvements identified in a development agreement shall be guaranteed by one of the following methods:

1. The developer may place an amount equal to 125% of the estimated cost in escrow, with that amount and accumulated interest being released only after the county has inspected and accepted the required improvements. A development agreement may provide for the phased release of a portion of the escrowed funds as work proceeds, but at least 25% of the amount in escrow shall be retained until all required improvements are installed, inspected, and accepted. If any required improvements are not completed as provided in the development agreement, the county shall use as much as necessary of the escrow account to complete those improvements, before returning any remaining balance to the developer.
2. The developer may provide an irrevocable or standing letter of credit for an amount equal to 125% of the estimated cost. The letter of credit shall be released only after the county has inspected and accepted the required improvements. If any required improvements are not completed as provided in the development agreement, the county shall use as much as necessary of the credit available to complete those improvements.

**Inspection Fees.** Fees for the inspection of required improvements shall be set by resolution of the County Commissioners. Inspection fees shall be paid before any work on required improvements is permitted.

**Inspection and Acceptance of Improvements.** Required improvements shall be inspected by the administrator before acceptance. Acceptance of required improvements shall be by action of the County Commissioners, following submission of the developer's written request for acceptance and receipt of the administrator's report that all improvements have been inspected and are in compliance with these regulations.

**As-Built Drawings.** Reproducible as-built drawings of all subdivision improvements shall be provided to the county at the developer's expense.

**Warranty of Improvements.** Required improvements shall be warranted by the developer for both materials and workmanship for one year after their acceptance. Such a warranty provision shall be included in all development agreements. Where all required improvements will be completed before a final plat is approved and the development is offered for lease, sale, or occupancy, a warranty agreement shall be submitted for approval. Enforcement of the warranty shall be assured by:

1. Retention of 10% of an escrow account.
2. A continuing letter of credit, but for 10% of the cost of the required improvements; or
3. Establishment of a new escrow account, in which an amount equal to 10% of the cost of all required improvements is deposited, and which shall be released only upon expiration of the warranty.

**Continuing Maintenance Required.** The continuing maintenance of any improvement required for compliance with these regulations shall be required. Failure to maintain any required improvement shall be a violation of these regulations.

**Maintenance Mechanism.** Any development subject to the continuing maintenance requirement that results, or may reasonably be expected to result, in the creation of multiple ownerships (subdivisions, condominiums) shall create a community association or similar mechanism to assure continuing maintenance. The developer shall submit the proposed declaration of covenants, articles of incorporation, and by-laws for the community association with the application for a permit and these documents shall be approved by the county's legal counsel and recorded before any certificate of compliance is issued. EXCEPTION: Creation of a community association shall not be required where the only improvement provided is future access to adjoining parcels.

**Open Space Maintenance.** The maintenance of any open space is required for compliance with these regulations and shall include fencing, where required; control of noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the open space values (wetlands, slopes, etc.) being protected.

**Maintenance of Landscaping.** Maintenance of landscaped areas includes the installation and maintenance of irrigation system, timely irrigation, weed and pest control, and all other activities required to maintain the function of the landscaped area.

**MANUFACTURED HOME  
And  
MANUFACTURED HOME PARK ORDINANCE  
Ordinance No. 2000-5-1**

**SECTION:**

**9-1           Manufactured Home and Manufactured Home Park Ordinance**

**AN ORDINANCE OF THE COUNTY OF ONEIDA, IDAHO, REGULATING THE CONSTRUCTION, MAINTENANCE, OPERATION AND ALTERATION OF MANUFACTURED HOMES AND MANUFACTURED HOME PARKS WITHIN THE COUNTY OF ONEIDA; PROVIDING FOR A DEFINITION OF THE TERMS USED IN SAID ORDINANCE; PROVIDING FOR MANUFACTURED HOMES; PROVIDING FOR MANUFACTURED HOME PARKS; ESTABLISHING THE REQUIREMENTS FOR SUCH PERMITS AND FURTHER PROVIDING FOR THE LICENSING OF MANUFACTURED HOME PARKS AND REGISTRATION OF MANUFACTURED HOMES; ESTABLISHING THE CONDITIONS AND STANDARDS OF CONSTRUCTION AND FOR THE INSPECTION OF MANUFACTURED HOME PARKS; PROVIDING PENALTIES FOR THE VIOLATIONS OF THE ORDINANCE; PROVIDING FOR A VARIANCE APPLICATION AND HEARING PROCEDURE, AND PROVIDING WHEN THE AMENDMENT SHALL BECOME EFFECTIVE.  
BE IT ORDAINED BY THE COMMISSIONERS OF ONEIDA COUNTY, IDAHO:**

**SECTION 9-1 - TITLE:** This ordinance shall be known and may be referred to as the Oneida County Manufactured Home and Manufactured Home Park Ordinance.

**SECTION 9-2 - PURPOSE:** The purpose of the Ordinance is to provide regulations for the establishment, construction, improvement, and alteration of private manufactured homes and manufactured home parks in Oneida County, Idaho, in order to promote, protect, and secure the public health, safety, and general welfare of its inhabitants.

**SECTION 9-3 - DEFINITIONS:** For the purpose of this Ordinance, terms used herein are defined as follows:

1. **MANUFACTURED HOME PARK** - Any area or tract of land upon which three (3) or more manufactured homes or trailer coaches are parked for living and/or sleeping purposes, such premises set apart for the purpose of supplying to the public parking space for such manufactured homes for sleeping purposes. "Manufactured Home Park" shall be deemed to be synonymous with "Trailer Court" or "Camp" or such other names as may be used in connection with the use as defined herein.
2. **MANUFACTURED HOME** - A dwelling unit, factory-built and factory assembled, designed for conveyance after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor incidental unpacking and assembly operations such as locating on jacks or other foundation, or connection to utilities and which may have sleeping, cooking, and plumbing facilities and intended for which may have sleeping, cooking, and plumbing facilities and intended for human

occupancy as a residence or as an office or business building.

The term manufactured home shall include all types of manufactured homes or “house-trailers” including, but not limited to “double-wide” or other over-sized structures.

3. **MANUFACTURED HOME SPACE** - A plot of ground within a manufactured home park designed for the location of all accessory structures, cabanas, etc., or other add-on enclosed space at least ten (10) feet wide and forty-five (45) feet long.
4. **SERVICE BUILDING** - A building housing the following facilities for public use and/or use of all occupants within a manufactured home park. Mop-water closet, toilet, and bathing facilities for both men and women.
5. **ACCESSWAY** - An unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured home park and connects to a public street.
6. **BUILDING INSPECTOR** - Any duly appointed officer of the County of Oneida, or his authorized representative, charged with the administration, and enforcement of the provisions of this Ordinance.
7. **DEPENDENT MANUFACTURED HOME OR TRAILER** - A manufactured home which does not have a toilet and/or bathtub or shower.
8. **INDEPENDENT MANUFACTURED HOME** - Shall mean a manufactured home as described above, which has a flush water closet and bath or shower.
9. **SETBACK** - Yard requirements. The distances that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines.

#### **SECTION 9-4 - APPLICATION AND BUILDING PERMIT:**

##### **1. PERMIT REQUIRED:**

- A. No person, firm or corporation shall construct, enlarge or alter any manufactured home park without first obtaining a building permit issued for the performance of such by Oneida County, and approval by the Southeastern District Health Department, as prescribed in Idaho State Code.
- B. No person, firm or corporation shall relocate/install any manufactured home unit, or enlarge, alter or reconstruct any manufactured home unit which has been installed or located permanently or temporarily within Oneida County, without obtaining a building permit from Oneida County.
- C. Application Procedure. Application for the construction, enlargement of alteration of a manufactured home park shall be made by filing a general line plot plan and five copies prepared by a professional engineer licensed in the State of Idaho showing the following:

2. General location in relation to existing streets.
3. Access roads within proposed manufactured home park.

4. Location and dimensions of each manufactured home space.
5. Location of parking spaces.
6. Location and description of proposed fences, ornamental fences and landscaping.
7. Location of all utility lines, such as water, gas, sewer, disposal facility, telephone, electrical, etc.
8. Topography to 1 foot contours.
9. Storm water drainage plan.

Application for installation, enlargement, alteration or reconstruction of a manufactured home unit shall be by application for a building permit.

**SECTION 9-5 - MANUFACTURED HOME RESTRICTION:**

1. All manufactured home units installed in Oneida County, prior to the effective date of this ordinance, must be registered with the office of the Assessor of Oneida County, within 90 days of the effective date hereof.
2. No building permit shall be issued until the building inspector has inspected and confirmed that the unit meets the following: (a) was constructed to federal manufactured home construction standards and (b) is constructed to hurricane standards if located in HUD Wind Zone II or III, and has certified the same to be correct.
3. **ORDINANCE COMPLIANCE** - Manufactured home parks and/or individual manufactured home units must be located or constructed within the requirements of any applicable Oneida County ordinances and the Idaho State Code. Individual manufactured home units must be located or constructed within the requirements of all county set back and other building ordinances, and state statutes relating to residential building. All manufactured home units located or installed outside of manufactured home parks must be a minimum of 20 feet wide and contain a minimum of 1,000 sq. feet.
4. If the use of property for a manufactured home park or individual manufactured home unit is discontinued for any reason for more than 6 months, it shall be re-established only upon application for and inspection of said property by the Oneida County Building Inspector.
5. If a manufactured home is moved into an established manufactured home park, it must be registered with the Oneida County Assessor's office before it can be legally occupied, also any change of ownership of a manufactured home located in a manufactured home park must be evidenced by title transfer and change of registration with the office of the Oneida County Assessor before the manufactured home can be legally occupied by the new owner.
6. A temporary permit can be issued by the Oneida County Commission for a manufactured home to be used temporarily while constructing a home or other temporary use. The permit will be good for 6 months and may be renewed once.
7. A service or business permit for a manufactured home will be issued by the Oneida County Commission and will comply with all requirements of this ordinance.

## **SECTION 9-6 - GENERAL CONDITIONS & LAYOUT OF PARKS :**

1. **ACCESS ROADS.** Each manufactured home park shall be provided with asphalt or concrete roads at least twenty (20) feet wide to serve each manufactured home space and common park areas. Each such access road should be continuous and unobstructed and shall connect directly to a public street. Direct vehicular access to manufactured home space shall be limited to the access road provided. Where any access road connects to two (2) or more public streets, it shall be arranged so as to discourage through traffic.
2. **OFF STREET PARKING.** Hard surface parking space shall be provided for the parking of motor vehicles in the ratio of at least two parking spaces to each manufactured space.
3. **MANUFACTURED HOME SPACE SIZE.** Each manufactured home space shall have a minimum area of five thousand (5,000) square feet and a minimum width of fifty (50) feet.
4. **MINIMUM YARD CLEARANCES FOR A MANUFACTURED HOME SPACE.** Each manufactured home shall have the following minimum yard clearances:
  - A. Front yard on a private access road: 25 feet.
  - B. Side yard on door side of manufactured home: 20 feet.
  - C. Side yard on no access side of manufactured home: 5 feet.
  - D. Rear yard: 20 feet.
5. **MINIMUM YARD CLEARANCES FOR MANUFACTURED HOME PARK.** Each manufactured home park shall have the following minimum yard clearances between the park boundary and the nearest space boundary:
  - A. Front or side yard on a public street: 30 feet or according to County Ordinance.
  - B. Side yard bordering adjacent property: 15 feet.
  - C. Rear yard bordering adjacent property: 15 feet.
  - D. **SEWAGE AND LIQUID WASTE.** All plumbing in the manufactured home park shall comply with State plumbing, health laws, and regulations. Each manufactured home space shall be provided with at least four (4) inch sewer disposal connection. The sewer service connection shall be provided with suitable fittings, so that a water-tight connection can be made between the manufactured home drain and sewer connection. Such individual manufactured home connections shall be so constructed that they can be closed when not linked to a manufactured home, and shall be capped in such a manner as to maintain them in an odor-free condition.
  - E. **WATER SUPPLY.** An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park.
    - i. All water piping shall be constructed and maintained in accordance with State and County law; the water piping system shall not be connected with non-potable or

questionable water supplies, nor be subject to the hazards of backflow or back siphonage.

- ii. Individual water service connections which are provided for direct use by manufactured homes shall be so constructed that they will not be damaged by the parking of such homes.

F. **UTILITY CONNECTIONS.** The owner of the manufactured park will be responsible for water supply that conforms with the requirements of the District Health Department and Idaho State Code; to provide the distribution lines for water and sewage collection as per approval by the Oneida County Planning and Zoning and Southeastern District Health Department pending submitted plans of park. The County reserves the right to make mandatory separate shutoffs the expense of the Manufactured Home Park owner for each manufactured home space.

G. **LANDSCAPING.** There shall accompany any application for the construction or maintenance of any Manufactured Home Park a plan for the landscaping of such Park. Such plans shall be subject to the approval of the Oneida County Planning and Zoning Commission.

H. **DRAINAGE.** The Manufactured Home Park shall be well drained. Provisions for drainage shall be made in accordance with the plans approved by an Idaho licensed Engineer.

I. **STORAGE.** A storage area shall be provided for each Manufactured Home Park for the storage of accessory items such as boats, vacation trailers, campers and related equipment owned by the park residents. Such items shall be stored in the storage area and not parked beside the manufactured home.

J. **INSECT AND WEED CONTROL.** Suitable measures recommended by the County Inspector shall be taken by the Manufactured Home Park operator to control insects and noxious weeds.

K. **PETS.** No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large, or to commit any nuisance within the limits of any Manufactured Home Park.

L. **FENCING AROUND PARK.** A chain link fence 6 feet high or a fence of comparable value or utility must be installed around the perimeter of the park.

M. **RECREATION AREA.** An area equal to 10% of the Manufactured Home Park shall be developed and set aside for recreational purposes. No manufactured home space, required buffer strip, street right-of-way, storage area, utility site, or utility easement shall be counted as recreation area in meeting this requirement.

**SECTION 9-7 - STANDARD OF CONSTRUCTION:**

1. All building, electrical, plumbing and fire protection construction shall comply with all State and County Construction Standards and Codes.
2. All manufactured home units outside the Manufactured Home Parks must be placed upon an approved permanent foundation.
3. All manufactured home units shall be skirted with matching siding material when applicable.

**SECTION 9-8 - VARIANCE PROCEDURE:**

1. **PURPOSE.** The Planning and Zoning Commission may recommend to the Board, as a result of unique circumstances a variance from strict compliance with specified provisions or requirements of this ordinance or that application of such provision or requirement is impracticable.
2. **FINDINGS.** No variance shall be favorably acted upon by the Commission unless there is a finding upon recommendation by the Commission that all of the following exists:
  - A. That there are such special circumstances or conditions affecting the property that the strict application of the provisions of the Ordinance would clearly be impracticable or unreasonable. In such cases, the Developer shall first state his reasons in writing as to the specific provisions or requirements involved.
  - B. That strict compliance with the requirements of this Ordinance would result in extraordinary hardship or that these conditions would result in inhibiting the achievement of the objectives of this ordinance.
    - i. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
    - ii. That such variance will not violate the provisions of the Idaho Code.
    - iii. That such variance will not have the effect of nullifying the interest and purpose of this ordinance.
    - iv. The fact that an Owner or Developer could realize a greater financial return by use of this property that is contrary to these regulations is not a sufficient reason for change. Hardship cannot be proved where it can be shown that the property was purchased with the knowledge of existing restrictions, nor can hardship be claimed in items of prospective sales or potential customer.

**SECTION 9-9 - ENFORCEMENT AND PENALTIES.** No Manufactured Home Park or Manufactured Home unit required by this Ordinance or the Idaho Code shall be titled, registered or recorded by the County, until such Manufactured Home Park or Manufactured Home unit's plans have received final approval by the Commission. The Prosecuting Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this Ordinance. Before the Prosecuting Attorney shall take any action, the Commission shall first authorize any civil action against the party concerned.

**Penalties.** Any person, firm, or corporation operating a Manufactured Home Park or Manufactured Home unit before Oneida County Commissioners' approval or violating any of the terms or provisions of this ordinance, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than (three-hundred) \$300.00 or imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 9-10 - APPLICATION.** This ordinance shall apply to all unincorporated areas of Oneida County.

**SECTION 9-11 -** If any section, paragraph, clause or provision of this ordinance is held invalid by any court or competent jurisdiction, for any reason, such holdings shall not affect the validity or enforceability of any of the remaining provisions.

**SECTION 9-12 - EFFECTIVE DATE.** This ordinance shall take effect and be in force from and after its passage, approval and publication as required by law.

**CHAPTER 10**

**TELECOMMUNICATION TOWERS**

**Ordinance No. 2001-08-01**

**AN ORDINANCE ESTABLISHING REGULATIONS AND STANDARDS FOR THE SITING OF TELECOMMUNICATIONS TOWERS, ANTENNAS AND FACILITIES WITHIN ONEIDA COUNTY, IDAHO, EXCLUDING INCORPORATED CITIES.**

*WHEREAS, the United States Congress adopted the Federal Telecommunications Act of 1996, which encourages the growth, of the telecommunications industry through deregulation, while confirming local government's ability to regulate the installation of Personal Communication Services (PCS), wireless communication facilities, and related telecommunication facilities for reasons of health, safety and aesthetics; and,*

*WHEREAS, the Oneida County Board anticipates the there will be inquires regarding applications for the installation and operation of telecommunication towers, antennas, and related facilities; and,*

*WHEREAS, the proposed ordinance was considered by the Oneida County Board of Commissioners at a duly notice public hearing on August 13, 2001.*

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ONEIDA COUNTY, IDAHO:**

*The Board of County Commissioners of Oneida County, Idaho, hereby adopts the following regulations as Chapter 10 of Oneida County Development Code:*

**TELECOMMUNICAITONS TOWERS, ANTENNAS, AND RELATED FACILITIES**

*The purpose of this chapter is to provide a set of standards for the development and installation of telecommunication towers, antennas, and related facilities. The regulations contained herein are designed to protect and promote public health, safety, and the community welfare of Oneida County. To encourage managed development of telecommunication infrastructure, while not unduly restricting the development of needed telecommunications facilities.*

*The County shall apply these regulations to accomplish the following:*

- 1. Minimize adverse visual effects of telecommunication towers, antennas, and related facilities through design and siting standards.*
- 2. Maintain and ensure that a non-discriminatory, competitive, and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community.*
- 3. Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of the Oneida County citizens.*
- 4. Protect environmentally sensitive areas of Oneida County by regulating the location, design, and operation of telecommunications facilities.*

5. *Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, and construction of towers with the ability to locate more than one provider.*

*Furthermore, this chapter is not intended to regulate residential satellite dishes or residential television antennas that are used privately. Additionally, it is not intended to regulate satellite dishes/antennas whose regulation is prohibited by Idaho Statutes or as preempted by Federal law.*

***Exempt from County Review:*** *The following shall be permitted without County approvals:*

1. *The use of all television antenna, satellite dishes, and receive only antennas, provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property.*
2. *Amateur Radio: This chapter shall not govern the installation of any antenna and their supporting towers, poles, and masts that is owned and/or operated by a federally licensed amateur radio operator or is used exclusively for receive-only antennas.*
3. *Mobile services providing public information coverage of new events of a temporary or emergency nature.*
4. *Free standing (Ground Mounted Antenna) antennas (not supported on or attached to a building) and their supporting towers, poles, or masts and their equipment buildings, one hundred twenty (120) square feet or less in size, may be installed without a zoning permit when the overall height of the antennas and their supporting structures do not exceed a height of twenty (20) feet above the original grade at the site of the installation.*
5. *Antennas installed on, or attached to, any existing building (Building Mounted Antenna), an existing telecommunication tower, or alternative support structure and their equipment buildings, one hundred twenty (120) square feet or less in size, when the height of the antenna and its supporting tower, pole, or mast is twenty (20) feet or less above the highest part of the building or alternative support structure to which it is attached. Antennas, installed on, or attached to, any existing building, an existing telecommunication tower, or alternative support structure and their equipment buildings.*
6. *Utility Pole Mounted Antennas if the height of the antenna is twenty (20) feet or less above the highest part of the utility pole.*

***Areas Permitting Telecommunication Facility Location with Conditional Use Approval:***

*Telecommunications facilities may be permitted subject to Conditional Use and approval by the Oneida County Planning and Zoning Commission.*

***Areas Limiting Telecommunication Facility Location:***

*Telecommunication facilities may be permitted in the following areas, subject to Conditional Use and approval by the Oneida County Planning and Zoning Commission but are subject to review and approval of the Federal Aviation Administration (FAA) and other appropriate agencies, if applicable:*

1. *½ mile radius from heliports*
2. *1 mile radius from private airport runway(s)*
3. *3 mile radius from public use airport runway(s)*

**Areas Prohibiting Telecommunication Facility Location:** *No telecommunications facilities will be allowed in the following areas:*

1. *Historic sites, as defined by state and/or federal regulation.*
2. *Critical species habitats, as defined by state and/or federal regulation.*
3. *Wetlands, as defined by state and/or federal regulation.*
4. *Floodplains, as defined by state and/or federal regulation.*

**Conditional Use Application:** *Locating and constructing a telecommunication tower or a new alternative support structure, including the buildings or other supporting equipment used in connection with said tower, shall require a Conditional Use Permit.*

1. *Submittal Information: For all telecommunication facilities, the Planning and Zoning Department shall require the following information to accompany every application. Said information shall include, but may not be limited to:*
  - A. *Completed conditional use application.*
  - B. *Original signature of applicant and land owner (if the telecommunication facility is located in an easement or pursuant to a ground lease, the beneficiaries of the easement or ground lease and underlying property owner must authorize the application).*
  - C. *The identity of the carrier, provider, applicant, landowner, and service provider and their legal status.*
  - D. *The name, address, and telephone number of the officer, agent, and/or employee responsible for the accuracy of the application.*
  - E. *A plat of survey, showing the parcel boundaries, tower, facilities, location, access, landscaping, and fencing.*
  - F. *A written legal description of the site.*
  - G. *In the case of a leased site, a lease agreement or binding lease memorandum which shows on its face that it does not preclude the tower owner from entering into leases on the tower with other provider(s), the legal description, and amount of property leased.*
  - H. *A description of the telecommunications services that the applicant offers or provides to persons, firms, businesses, or institutions.*
  - I. *Federal Communication Commission (FCC) license numbers and registration numbers, if applicable.*
  - J. *Copies of Finds of No Significant Impacts (FONSI) statement from the Federal Communication Commission (FCC) or Environmental Impact Study (EIS), if applicable.*
  - K. *An alternatives analysis prepared by the applicant or on behalf of the applicant by its designated technical representative, subject to the review and approval of the Planning and Zoning Commission, which identifies all reasonable, technically feasible, alternative locations and/or facilities which could provide the proposed telecommunication service. The*

*intention of the alternatives analysis is to present alternative strategies which could minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the County. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to the review and approval of the Planning and Zoning Commission. The County may require independent verification of this analysis at the applicant's expense; the consultant will be chosen by the Planning and Zoning Commission from a list mutually agreed upon by the County and the Telecommunications Industry.*

- L. Plans indicating security measure (e.g. access, fencing, lighting, etc.).*
  - M. Shall include a tabular and map inventory of all of the applicant's existing telecommunications towers that are located within Oneida County and including all of the applicant's existing towers within fifteen hundred (1,500) feet of the county boundary. The inventory shall specify the location, height, type, and design of each of the applicant's existing telecommunication towers, and the ability of the tower or antenna structure to accommodate additional Co-location antennas.*
  - N. A report prepared by an Engineer licensed by the State of Idaho certifying the structural design of the tower and its ability to accommodate additional antennas.*
  - O. Proof of liability coverage.*
  - P. Such other information as the Planning and Zoning Commission may require.*
  - Q. Proof of notification indicating that the airport operator and airport property owner(s) within the areas limiting telecommunication facility locations have been notified.*
- 2. **CO-Location:** All tower owners shall make available unused space for CO-location of other telecommunication facilities, including space for those entities providing similar, competing services. CO-location is not required if the host facility can demonstrate that the addition of the new service or facilities would impair existing service. All CO-located and multiple-user telecommunication support facilities shall be designed for compatible joining to facilitate site sharing.*
  - 3. **Technical Review:** The Planning and Zoning Department, upon direction of the Oneida County Planning and Zoning Commission, has the option on behalf of the County to employ an independent technical expert to review materials submitted. The consultant will be chosen from a list mutually agreed upon by the County and the applicant. The applicant shall pay all the costs of said review. The payment to the Planning and Zoning Department shall be due upon receipt of the invoice. All fees and charges accumulated for the technical review must be paid in full prior to the issuance of the Conditional Use Permit.*
  - 4. **Submittals Required Following the Conditional Use Approval:** For each conditional use permit approved by the Oneida County Planning and Zoning Commission, the applicant shall submit the following before the conditional use permit will be issued:
    - A. Copies of the determination of no hazard from the Federal Aviation Administration (FAA), including any aeronautical study determination or other findings and other agencies, if applicable.**

- B. Copies of any Environmental Assessment (EA) reports on Form 600 or Form 854 submitted to the Federal Communication Commission (FCC), if applicable.*
- C. Copies of any filings submitted to the Federal Communication Commission (FCC) shall be submitted within thirty (30) days of filing, subject to the review of the Zoning Administrator.*
- D. Proof of Bond as security for removal.*

***Annual Information Report:*** *The purpose of the annual review is to provide the County with accurate and current information concerning the telecommunications tower owners and providers who offer or provide telecommunications services within the County, to assist the County in enforcement of this Chapter, and to assist the County in monitoring compliance with the conditional use permit.*

- 1. **Annual Information Report:** All telecommunications tower owners of any new or existing telecommunication tower shall submit annually on or before January 31 of each year, to the Planning and Zoning Department a Telecommunications Facility Annual Information Report. The Annual Report shall include the tower owner name(s), address(s), phone number(s), contact person(s), annual review fee, and proof of bond as security for removal. The tower owner shall supply the tower height of current occupancy, if applicable. This information shall be submitted to the County and shall become evidence of compliance.*
- 2. **Annual Report Fee:** Following the conditional use approval, every year thereafter, the tower owner shall submit, on or before January 31 of each year, to the Planning and Zoning Department, an annual review fee of \$150.00 per year for each tower site. The information shall result in a civil forfeiture of \$300.00 per day until the information is received by the Oneida County Planning and Zoning Department.*

***Removal/Security for Removal:***

- 1. It is the express policy of Oneida County that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Oneida County Planning and Zoning Department. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the telecommunications facility down to five feet below the surface. After a telecommunications facility is no longer in operation, the tower owner shall have ninety (90) days to effect removal and restoration unless weather prohibits such efforts.*
- 2. **Security for Removal:** The telecommunications tower owner shall provide to Oneida County, prior to the issuance of the conditional use permit or the issuance of a zoning permit, a performance bond in the amount of Twenty Thousand Dollars (\$20,000) or a bond equal to a written estimate from a qualified tower removal contractor to guarantee that the telecommunications facility will be removed when no longer in operation. Oneida County will be named as obligee in the bond and must approve the bonding company.*

## ***Pre-existing Telecommunication Towers***

1. ***Non-conforming and conforming:*** Telecommunication towers and facilities may add to, move, or replace the tower and facilities upon approval of the Oneida County Planning and Zoning Department. An existing tower may be increased in height a maximum of fifty (50) feet, relocated, or reconstructed within fifty (50) feet of its existing location to accommodate co-location subject to meeting all the other sections of the Chapter except section 17.7 and 17.12. Routine maintenance and repair on telecommunications facilities is permitted.
2. ***Existing Use Review***
  - A. ***Existing use review for those towers structurally capable to co-locate:*** Beginning August 7, 2001, all telecommunications tower owners, applicable to the requirements of this Chapter operating in Oneida County prior to the adoption of this Chapter, shall provide the information required under section 17.8 (except proof of bond and proof of insurance) of this Chapter and pay an annual fee of \$150.00 per tower site on or before January 31 of each year. Failure to provide this information shall result in a civil forfeiture of \$300 per day until the information is received by the Oneida county Planning and Zoning Department.
  - B. ***Existing use review for those towers structurally incapable for co-location:*** Beginning August 7, 2001, all telecommunications tower owners, applicable to the requirements of this Chapter operating in Oneida County prior to the adoption of this Chapter, shall provide the information required under section 17.8 (except proof of bond and proof of insurance), submit documents that the tower is structurally incapable of co-location, and pay a one-time fee of \$150.00 per tower site on or before January 31. Failure to provide this information shall result in a civil forfeiture of \$300.00 per day until the information is received by the Oneida County Planning and Zoning Department.

## ***Compliance***

1. ***Revocation:*** Grounds for revocation of the conditional use permit shall be limited to one of the following findings:
  - A. *The owner of such site, service provider and/or tower owner fails to comply with the requirements of this Chapter.*
  - B. *The permittee has failed to comply with the conditions of approval imposed.*
  - C. *The facility has not been properly maintained.*
2. ***Revocation Process***
  - A. *The owner of such site, service provider, and/or tower owner shall be notified by certified mail of noncompliance by the Oneida county Planning and Zoning Department.*
  - B. *The owner shall comply with such notice within thirty (30) days to the satisfaction of the Oneida County Planning and Zoning Department.*
  - C. *If compliance is not obtained within thirty (30) days, the Oneida County Planning and Zoning Department shall notify the Oneida County Prosecutor of the noncompliance and*

*proceed with the revocation process. (This time period may be extended by staff to adjust for seasonal limitations.)*

3. *Abandonment: Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Time may be extended upon review and approval of the Oneida County Planning and Zoning Department if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:*
  - A. *The owner of such antenna or tower shall remove said antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of notice from the Planning and Zoning Department notifying the owner of abandonment. If removal to the satisfaction of the Planning and Zoning Department does not occur within said ninety (90) days, the Oneida County Board may order removal utilizing the established bond and salvage said antenna or tower and all supporting equipment and building(s). If there are two or more users of a single tower, then this provision shall not become effective until all operations of the tower cease.*
  - B. *The recipient of a conditional use permit for a telecommunications facility under this ordinance shall notify the Planning and Zoning Department when the facility is no longer in operation.*

### ***Structural, Design, and Environmental Standards***

1. ***Tower, Antenna, and Facilities Requirements.*** *All telecommunication facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end, all of the following measures shall be implemented:*
  - A. *All telecommunication facilities shall comply at all times with all Federal Communication Commission (FCC) rules, regulations, and standards. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the Federal Communication Commission (FCC) adopted standard for human exposure, as amended or any more restrictive standard subsequently adopted or promulgated by the Federal Government. All telecommunication towers and antennas shall meet or exceed the standards and regulations in place at the time of the issuance of the Conditional Use Permit, of the Federal Aviation Administration (FAA), the Idaho State Bureau of Aeronautics, Occupational Safety and Health Association (OSHA), the Federal Communication Commission (FCC) and authority to regulate towers and antennas.*
  - B. *Telecommunication towers shall be constructed out of metal or other nonflammable material, unless specifically permitted.*
  - C. *All ground mounted telecommunication towers shall be self-supporting monopoles or lattice towers, except where satisfactory evidence is submitted to the Planning and Zoning Commission that a guyed tower is required.*
  - D. *Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.*
  - E. *Telecommunication support facilities (e.g. equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only). Telecommunication support facilities shall be no taller than one story fifteen feet (15') in height, measured from the original grade at the base of the facility to the top of the*

*structure, and shall be designed to blend with existing architecture in the area or shall be screened from sight by mature landscaping, and shall be located or designed to minimize their visibility.*

*F. Telecommunications towers, facilities, and antenna shall be designed and constructed in accordance with the Uniform Building Code and other applicable State and Federal requirements.*

*G. The maximum height of an antenna platform located on a roof top shall be twenty (20) feet above the roof.*

*H. Telecommunication facilities shall not interfere with or obstruct existing or proposed public safety, fire protection, or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the County.*

**2. *Height:*** *The height of a telecommunication tower shall be measured from the original grade at the base of said tower to the highest part of the tower itself. In the case of building mounted towers, the height of the tower includes the height of the portion of the building on which it is mounted. In the case of “crankup” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.*

**3. *Lighting:*** *Telecommunication towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA) or other applicable regulatory authority.*

**4. *Site Development, Roads, and Parkings:***

*A. A leased parcel intended for the location of new telecommunication tower(s) and equipment building(s) shall maintain a minimum parcel size of twenty-five hundred (2,500) square feet. The Oneida County Planning and Zoning Commission may modify the leased parcel size requirement after public hearing and review.*

*B. A parcel owned by the telecommunication carrier and/or provider and intended for the location of new telecommunication tower(s) and equipment building(s) shall meet the minimum size requirement of the ordinance.*

*C. All sites must be served by a minimum thirty (30) foot wide easement with a turn around. The Oneida County Planning and Zoning Commission may modify the easement and turn around requirement after public hearing and review. All sites shall use existing access points and roads whenever possible. The access point to the site shall be approved by the respective County Highway District or the applicable road jurisdiction.*

**5. *Vegetation Protection and Facility Screening:***

*A. All telecommunications facilities shall be installed in such a manner so as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this section, “mature landscaping” shall mean trees, shrubs, or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation.*

*B. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping.*

- C. *Facility structures and equipment, including supporting structures, shall be located, designed, and screened to blend with the existing natural or built surroundings so as to reduce visual impacts.*
- 6. *Fire Prevention: All telecommunication facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.*
- 7. *Noise and Traffic: All telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented for telecommunication.*
  - A. *Noise producing construction activities shall only take place on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair.*
  - B. *Backup generators shall only be operated during power outages and for testing and maintenance purposes.*

***Separation and Setback Requirements:***

***1. Minimum Separation between Telecommunication Towers (by tower type).***

<i>Proposed tower types:</i>	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole- 85 ft. in height or greater</i>
<i>Lattice</i>	<i>1500 ft.</i>	<i>1500 ft.</i>	<i>750 ft.</i>
<i>Guyed</i>	<i>1500 ft.</i>	<i>1500 ft.</i>	<i>750 ft.</i>
<i>Monopole-85 ft In height or greater</i>	<i>750 ft.</i>	<i>750 ft.</i>	<i>750 ft.</i>

- A. *Two (2) towers may be permitted to be located within one hundred (100) feet of each other subject to conditional use and approval of the Oneida County Planning and Zoning Commission and subject to meeting the setback requirements.*
- B. *Three (3) towers may be permitted subject to conditional use and approval of the Oneida County Planning and Zoning Commission.*
- C. *Camouflaged towers are exempt from separation between tower requirements listed above.*
- 2. ***Setbacks: All setbacks shall be measured from the base of the tower or structure.***
  - A. *Setbacks from all habitable residential buildings, except buildings located on the subject parcel: All new towers shall be setback a distance equal to 125% of the height of the tower.*
  - B. *Set backs from all historic sites and districts: All new towers shall be setback a distance equal to 125% of the height of the tower from historic sites and districts.*
  - C. *Setbacks from property lines: All new towers shall be setback a minimum of fifty (50) feet from all property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property line.) This setback requirement may be modified by the Oneida County Planning and Zoning Commission after public hearing and review.*

- D. Set backs from property lines. (This requirement does not apply to the boundary of the leased parcel unless the leased parcel boundary is also a property lines.)*
- E. Setback from the Ordinary High Water Mark (OHWM): All new towers shall be setback a minimum of seventy-five (75) feet from the Ordinary High Water Mark (OHWM) of a navigable stream and a minimum 125% of the tower height from the Ordinary High Water Mark (OHWM) of a navigable lake.*
- F. Guy Wire Anchor Setback: All guy wire anchors shall be at least twenty-five (25) feet from all property lines. This setback requirement may be modified by the Oneida County Planning and Zoning Commission after public hearing and review.*

***Permits:** A Conditional Use permit is required for the location of all telecommunication facilities in Oneida County. Proposed co-location on facilities previously approved by Oneida County Planning and Zoning Commission shall be approved administratively by the Oneida County Planning and Zoning Department, provided that the applicant complies with the provision of this Chapter and provides a completed application and permit fee*

***Severability:** Irrespective of the basis of the invalidity, if any term or condition of this ordinance is invalid, the remaining terms and conditions of this ordinance are severably and effective until the repeal or amendment of such terms and conditions.*

Dated August 13, 2001

Board of Commissioners of  
Oneida County, Idaho

Gene Caldwell  
Gene Caldwell, Commissioner

Attest:

Shirlee Blaisdell  
Shirlee Blaisdell, County Clerk

**SUMMARY OF ORDINANCE NO. 2001-08-01**

**AN ORDINANCE ESTABLISHING REGULATIONS AND STANDARDS FOR THE SITING OF TELECOMMUNICATIONS TOWERS, ANTENNAS AND FACILITIES WITHIN ONEIDA COUNTY, IDAHO, EXCLUDING INCORPORATED CITIES.**

*A summary of the principal provisions of Ordinance No. 2001-08-01 of the County of Oneida, State of Idaho, adopted by the Board of County Commissioners on the 13<sup>th</sup> day of August, 2001, and the 19<sup>th</sup> day of November 2001, and hereby known as Chapter 10 of the Oneida County Development Code, is as follows:*

**1. TELECOMMUNICATIONS TOWERS, ANTENNAS AND RELATED FACILITIES.**

*The purpose of this chapter is to provide a set of standards for the development and installation of telecommunication towers, antennas, and related facilities. The regulations contained herein are designed to protect and promote public health, safety, and the community welfare of Oneida County. To encourage managed development of the telecommunications infrastructure, while not unduly restricting the development of needed telecommunications facilities.*

**2. EXEMPT FROM COUNTY REVIEW.**

*Outlines in detail what telecommunications facilities shall be permitted without County approval.*

**3. AREAS PERMITTING TELECOMMUNICATION FACILITY LOCATION WITH CONDITIONAL USE APPROVAL.**

*Declares that telecommunications facilities may be permitted subject to Conditional Use and approval by the Oneida County Planning and Zoning Commission.*

**4. AREAS LIMITING TELECOMMUNICATION FACILITY LOCATIONS.**

*Outlines in detail areas which telecommunication facilities may be permitted, subject to Conditional Use and approval by the Oneida County Planning and Zoning Commission.*

**5. AREAS PROHIBITING TELECOMMUNICATION FACILITY LOCATION.**

*Outlines in detail areas in which telecommunication facilities are prohibited.*

**6. CONDITIONAL USE APPLICATION.**

*Declares that locating and constructing a telecommunications tower or a new alternative support structure, including the building or other supporting equipment used in connection with said tower shall require a Conditional Use Permit. Also outlines in detail submittal requirements for application.*

**7. ANNUAL INFORMATION REPORT.**

*Declares purpose of annual review report and set forth necessary information to be included in said review report. Also establishes annual review fee of \$150.00 per year for each tower site and penalty of \$300.00 per day until information is received.*

**8. REMOVAL/SECURITY FOR REMOVAL.**

*Declares that telecommunications facilities be removed once they are no longer in use and not a functional part of providing telecommunications service and that it is the telecommunications tower owner's responsibility to remove such facilities and restore the site to its original condition or a condition approved by the Oneida County Planning and Zoning Department. The tower owner shall have 90 days to effect removal and restoration, and shall also provide to Oneida County a performance bond in the amount of \$20,000.00 or a bond equal to a written estimate from a qualified tower removal contractor naming Oneida County as obligee.*

**9. PRE-EXISTING TELECOMMUNICATION TOWERS.**

*Declares that telecommunication towers and facilities may add to, move, or replace the tower and facilities upon approval of the Oneida County Planning and Zoning Department. Also declares for existing use review for those towers structurally capable and incapable for co-location, and establishes fee and penalties.*

**10. COMPLIANCE.**

*Outlines in detail grounds for revocation of the Conditional Use Permit, revocation process, including abandonment.*

**11. STRUCTURAL, DESIGN, AND ENVIRONMENT STANDARDS.**

*Outlines in detail requirements in which telecommunication facilities shall be structured and designed and environmental standards.*

**12. SEPARATION AND SETBACK REQUIREMENTS.**

*Sets forth the minimum separation between telecommunication towers and setback requirements.*

**13. PERMITS.**

*Declares that a Conditional Use Permit is required for the location of all telecommunication facilities in Oneida County.*

**14. SEVERABILITY.**

*Declares if any term or condition of this Ordinance is invalid, the remaining terms and conditions of this Ordinance are severability and effective until the repeal or amendment of such terms and condition.*

*The full text of Ordinance No. 2001-08-01 is available at the Oneida County Clerk's Office, Oneida County Courthouse, 10 Court Street, Malad City, Idaho, and will be provided to any citizen upon personal request during normal office hours.*

*This Ordinance shall be in full force and effect upon the publication of this summary as allowed by law.*

DATED this 19<sup>th</sup> day of November, 2001.

Board of Commissioners of  
Oneida County, Idaho

  
E. GENE CALDWELL, Chairman

ATTEST:

  
SHIRLEE BLAISDELL, Clerk

**CERTIFICATION CITY ATTORNEY**

*I, the undersigned Attorney for Oneida County, State of Idaho, hereby certify that I have read the attached Summary of Ordinance No. 2001-08-01 of the County of Oneida, and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.*

*DATED this 19<sup>th</sup> day of November, 2001.*

  
STEVIN E. BROOKS  
Oneida County Attorney

## **CHAPTER 11**

### **ORDINANCE NO. 2012-05-01**

**AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING ONEIDA COUNTY DEVELOPMENT CODE TO INCLUDE CHAPTER 11 REGARDING ANIMAL FEEDING OPERATIONS; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ONEIDA, STATE OF IDAHO:**

#### **ARTICLE 01: DECLARATION OF POLICY AND PURPOSE**

*The purpose of this ordinance is to amend the Oneida County Development Code to include Chapter 11, as outlined herein, as is consistent with the policies and purposes of the Oneida County Development Code.*

#### **ARTICLE 02: AMENDEMENTS TO DEVELOPMENT CODE**

*The Oneida County Development Code shall be amended to include the following:*

### **CHAPTER 11**

#### **ANIMAL FEEDING OPERATION**

##### **SECTION:**

*11-1 General, Scope and Applicability*

*11-2 Severability*

*11-3 State Statutes*

*11-4 Definitions*

*11-5 Location, Separation and Setbacks*

*11-6 Application Procedure – Existing Confined Animal Feeding Operation*

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*11-9 Enforcement and Termination*

*11-10 Permit Application Fees*

#### **11-1 GENERAL, SCOPE AND APPLICABILITY**

- 1. General:** *The provisions of this ordinance are minimum standards. The owner/operator must be in compliance with and not be in violation of any local, State and/or Federal laws that are more restrictive standards.*

*When future ordinances, or state or federal law, impose additional standards on activities governed by this ordinance, this ordinance shall apply unless state law specifically supercedes this ordinance.*

- 2. Scope and Applicability:** *Confined Animal Feeding Operations subject to the requirements of this ordinance shall apply to and include all new or expanding existing operations in Oneida County, which meet the definitions of a Confined Animal Feeding Operation as defined in this chapter.*

- A. *Confined Animal Feeding Operation shall, prior to the commencement of any such confinement operation, secure an operating permit for such an operation from the Oneida County Planning & Zoning Commission, pursuant to the procedure set forth in this ordinance. Such permit shall be required for Confined Animal Feeding Operations, including those that are considered non-conforming uses of record upon expansion or increase of the size of operations.*
- B. *Pastured Animals: Pastured animals are not considered to be a CAFO and therefore, do not need a permit, nor are they regulated as to the number of animals that an owner can have on his property. Pasture is defined as land where crops, vegetation, or forage growth are sustained in the normal growing season.*
- C. *Building/Zoning Permit: Any owner and/or operator of a Confined Animal Feeding Operation shall obtain a permit prior to the construction of any permanent structures associated with a Confined Animal Feeding Operation as set forth in this chapter. Such permit shall be issued by the Administrator upon approval of a livestock confinement application by the Planning and Zoning Commission.*

## **11-2 SEVERABILITY**

*If any provision in this chapter is held to be invalid by any court, the remainder shall continue in full force.*

## **11-3 STATE STATUTES**

*This chapter is not intended to deprive the citizens of Oneida County or any CAFOs of any provisions of the Local Land Use Planning Act, Idaho Code §§ 67-6501-6538; the Right to Farm Act, Idaho Code §§ 22-4501-4504; or the Agriculture Odor Management Act, Idaho Code §§ 25-3801 to 3803.*

## **11-4 DEFINITIONS**

*For the purpose of this Ordinance, certain terms, phrases, or words used herein shall be defined as follows:*

1. *“Board”:* *The Board of County Commissioners.*
2. *“Commission”:* *The Planning & Zoning Commission.*
3. *“Affected Persons”:* *All landowners within one mile of proposed Confined Animal Feeding Operation and/or those who have registered with the Planning and Zoning Administrator to receive notifications.*
4. *“CAFO Siting Advisory Team”:* *The Idaho State Department of Agriculture shall serve as the lead agency for a team comprised of representatives of the Idaho State Department of Agriculture (ISDA), Idaho Department of Environmental Quality (IDEQ), and Idaho Department of Water Resources (IDWR), Idaho Code § 67-6529 and an ex officio representative from Oneida County who review a site proposed as a CAFO, determine environmental risks and submit a suitability determination report to the county.*
5. *Confined Animal Feeding Operation: also referred to as “CAFO” for the purpose in Oneida County shall mean a lot or facility where all of the following conditions are met:*
  - A. *Enterprise where animals have been, are or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period;*
  - B. *Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility;*

- C. The lot or facility is designed to confine or actually does confine as many as or more than the number of animals specified in any of the following categories: seven hundred (700) mature dairy cows, whether milked or dry; one thousand (1,000) veal calves; one thousand (1,000) cattle other than mature dairy cows or veal calves; two thousand five hundred (2,500) swine each weighing (55) pounds or more; ten thousand (10,000) swine each weighing less than fifty-five (55) pounds; five hundred (500) horses; ten thousand (10,000) sheep or lambs; eighty-two thousand (82,000) chickens; Idaho Code § 67-6529; two hundred thousand (200,000) furbearers; or five hundred thousand (500,000) total pounds of any other species.*
- D. CAFOs shall include barns, sheds, feed storage facilities, corrals, lagoons, parking, and waste storage areas.*
- E. Two (2) or more CAFOs under common ownership are considered, for the purposes of this definition, to be a single confined animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.*
- 6. “Environmental risk”: That risk to the environment deemed posed by a proposed CAFO site, as determined and categorized by the CAFO site advisory team’s suitability determination report.*
- 7. Existing Confined Animal Feeding Operation “CAFO”: A CAFO that exists on the date that the Board gives final approval of this ordinance.*
- 8. “Furbearers”: Mink, fox, rabbits, beaver, otter or other similar domesticated animals.*
- 9. NCRS: Natural Resource Conservation Service.*
- 10. Non-Conforming: Any existing use that does not meet location, separation, and setback requirements of this ordinance.*
- 11. Nutrient Management Plan: A plan prepared by a state certified nutrient management planner in accordance with NRCS Standard 590 as required by the Idaho State Department of Agriculture.*
- 12. “Suitability determination”: Shall mean that document created and submitted by the CAFO site advisory team after review and analysis of a proposed CAFO site that identifies the environmental risk categories related to a proposed CAFO site, describes the factors that contribute to the environmental risks and sets forth any possible mitigation of risk.*
- 13. Waste Management: The process, area, and/or mechanism employed to process waste normally associated with confined animal feeding operations which may include waste products, (organic waste matter such as urine and/or feces); wastewater and feed residues.*

## **11-5 LOCATION, SEPARATION AND SETBACKS**

- 1. Existing Facilities** associated with a Confined Animal Feeding Operation which do not meet the location, separation and setback requirements of this chapter at the time of the adoption of this ordinance shall be exempt from said requirements, provided said facilities do not have a change of use, (such as a dairy operation to a beef operation). Replacement of existing structures or additions thereto shall be subject to public road right-of-way setbacks as provided in this title, but shall not be placed any closer to occupied residential uses.
- 2. Installation of Landscape Buffers** between potentially incompatible land uses and along public roads shall be encouraged. Approved buffering along stream corridors is required. Buffers between CAFOs and neighboring property are encouraged such as berms, foliage, windbreaks, walls, natural terrain, and other buffers. An applicant may include one or more of the foregoing buffers in support of a request for a variance from the setback requirement.
- 3. Public Right of Ways:** All new structures and facilities shall be subject to public road setback limitations, including confinement areas, loading, off-loading, and feed storage facilities as set forth in this title. Any structure confining animals in a CAFO, whether barn, corral, or other structure, must have external boundaries no less than one hundred feet (100') from the external boundary of any public right of way.
- 4. Proximity to Well:** No barn, corral or other structure in which livestock are confined in a CAFO, or any lagoon, or other structures containing liquid waste, and the outside edge of any composting yard for the waste generated from a CAFO shall be located nearer than three hundred feet (300') from any well not located within the boundaries of the designated CAFO site.
- 5. Separation From Residences and Other Buildings:** All Confined Animal Feeding Operation areas, sewage lagoons, separators, solid waste storage and composting facilities shall be located not less than 1000 feet from occupied residential uses, churches, schools or other buildings used for human occupancy, including manufactured homes, not associated with the Confined Animal Feeding Operation.
- 6. Residential /Feed Lot Encroachment:**
  - A. Residential Subdivisions, Planned Unit Developments or Confined Animal Feeding Operations proposed after the effective date of this chapter shall be located no closer than one (1) mile to each other.
  - B. No residential use, including manufactured homes, (not associated with the Confined Animal Feeding Operation) shall be permitted upon any property where the location of such residential use would encroach upon the separations required of an approved Confined Animal Feeding Operation, which has a construction or operating permit.
- 7. Other Use Encroachment:** No commercial uses, churches, schools or other buildings used for human occupancy shall be permitted upon any property where the location of such use would encroach upon the separations required of an approved Confined Animal Feeding Operation, which has a construction or operating permit.

**8. Waste Lagoons:**

- A. *Liquid waste treatment lagoons, separators, holding ponds, liquid and/or solid waste storage facilities shall be a minimum of fifty (50) feet away from the water's edge of any canal, lateral, ditch or berm adjacent to any natural waterway.*
- B. *Liquid waste treatment lagoons, separators, holding ponds, liquid and/or solid waste storage facilities shall be not less than three hundred feet (300') from any public roads right of ways and property boundaries.*
- C. *Liquid waste treatment lagoons, separators, holding ponds, liquid and/or solid waste storage facilities shall be not less than three hundred feet (300') from any domestic wells.*

**9. Corrals:**

- A. *The closest edge of corrals shall be located at least three hundred (300) feet from any domestic well.*

**10. Runoff Containment:**

*For maintenance and control reasons, all runoff containment systems shall be maintained entirely on the property of the Confined Animal Feeding Operation.*

- A. *For maintenance and control reasons, any part of a runoff containment systems shall be located at least thirty (30) feet from any public right-of-way or property line.*
- B. *The closest inside edge of runoff containing wall or bank shall be located at least three hundred feet from any domestic well and one thousand (1000) feet from any public water system.*

**11. Feed Storage Areas:**

- A. *All feed storage facilities shall have adequate access to public right-of-ways that do not obstruct vision or cause any other type of traffic hazard.*
- B. *All permanent feed storage structures shall comply with setbacks and separation as established in this ordinance and the adopted building code.*

**12. Other Location and Separation Requirements:** *Location of waste lagoons, corrals, wells, septic systems and other livestock confinement related facilities and structures shall comply with all applicable requirements of the Department of Environmental Quality, the Department of Agriculture or other applicable State or Federal Agency.*

**13. Variances:** *Variances from the separation requirements of residential uses, other buildings, and property boundaries may be granted if consent thereto is obtained and recorded by the landowners of such property and the owner/operator of an affected Confined Animal Feeding Operation.*

**11-6 Application Procedure – Expanding existing Confined Animal Feeding Operation or becoming a CAFO**

- 1. Operations:** *It is the goal of this ordinance to protect existing feeding operations and not place any onerous restrictions to their operation in place. It is also recognized that some conflicts may already exist with non-agricultural uses. This ordinance cannot be construed to relieve any existing CAFO from any requirements by other local, state or federal regulations, ordinances and laws.*
- 2. Expansion:** *Existing CAFOs may expand to one hundred forty (140) percent of the number declared for their prior use permit. All expansion beyond these limits shall require a new permit and applicants must meet the conditions required for said permit. Owners of existing permits may apply for a permit for a new facility without bringing existing facilities up to code requirements.*

**11-7 Application Procedure – New Confined Animal Feeding Operation Siting Permit:** *Owners of real property upon which a new CAFO will be established must file an application for such CAFO with the office of the Planning and Zoning administrator for Oneida County, Idaho, upon a form approved by the Oneida County Planning and Zoning Commission. Submission of a siting permit gives approval for the administrator or designee to do onsite inspections. The application for new CAFO permit must be in writing and shall contain the following information:*

- 1.** *Complete names, addresses and telephone numbers of every owner of real property within the proposed CAFO. If applicant is not the owner of real property within the proposed site of operation, applicant shall also disclose complete names, addresses and telephone numbers of all applicants, and shall furthermore state and clarify their interest(s) in the proposal.*
- 2.** *The complete legal description of the real property contained within the CAFO. Also under separate label, the complete legal description of the real property proposed for the waste management area.*
- 3.** *A statement of the current and historical uses of the real property described in the application.*
- 4.** *A narrative description describing the proposed operation, including the species of animals that will be confined, the number of animals that will be confined and a description of the structures and other facilities that will be required to confine, feed and care for the animals and removal of the solid and liquid waste produced from proposed operation.*
- 5.** *A map including surface contours, soil depths and types, sizes and locations of drainage of the CAFO site. Proposed changes to the existing contours shall be shown on a separate contour map prepared by an engineer or land surveyor licensed in the State of Idaho.*
- 6.** *A vicinity map showing the following information within one half (1/2) mile of the exterior boundaries of the proposed operation:*
  - A.** *Location of all residences and buildings intended for human occupancy and distance to proposed operation.*
  - B.** *Location and use of all other buildings.*
  - C.** *Location of all public, domestic, or irrigation wells and distance to proposed operation.*
  - D.** *Location of monitoring and injection wells and seep tunnels of record.*
  - E.** *Irrigation canals, laterals, ditches and pipelines.*
  - F.** *Rivers, streams, springs, reservoirs and wetlands.*
  - G.** *Easements.*
  - H.** *Other CAFOs and distance to proposed operation.*

- I. Public roads and highways and distance to proposed operation.*
- 7. The site plan submitted with said application shall comply with and include the following:*
  - A. Dimensions, size and location of any existing or proposed buildings or additions including setback measurements.*
  - B. Dimensions, size and location of all but not limited to feed storage areas, livestock confinement areas, waste storage areas and water wells.*
  - C. The CAFO's location and distance from canal, ditches, injection wells and sink holes.*
  - D. Traffic access and public roads or highways.*
  - E. The location and placement of area lighting fixtures.*
  - F. The site plan shall indicate planned expansion areas, future construction sites and all other proposed aspects of the CAFO as herein mentioned.*
  - G. The site plan shall be prepared a minimum size of eighteen (18) by twenty-four (24) inches and drawn to scale approved by the administrator.*
- 8. Waste system design plan for solid or liquid waste approved by the appropriate agency of the State of Idaho.*
- 9. Nutrient management plan.*
- 10. Idaho Department of Water Resources application and subsequent licensure for water source and rights.*
- 11. Pest and odor abatement plans.*
- 12. As required by Idaho Code § 22-2471, "It shall be the duty and responsibility of all persons .... to control noxious weeds on land and property that they own."*
- 13. Area lighting shall be located and/or shielded in such a manner so that the light source will be directed down and inside the property lines of the Confined Animal Operation. Area lighting shall also be located and/or shield in such a manner so that the light source will not blind, restrict, or otherwise interfere with the vision of operators of motor vehicles in public roadways.*
- 14. The Confined Animal Feeding Operations shall be managed to prevent dust from creating a public road visibility hazard.*
- 15. Written comment on and the approval of the State of Idaho Highway Department or Oneida County Road and Bridge Department of ingress and egress points of the site.*
- 16. The site plan shall demonstrate compliance with the setbacks set forth in this chapter.*
- 17. Application fee as established by resolution of the Board.*

## ***11-8 Process of Application and Notice of Hearing:***

- 1. APPLICATION REVIEW:*** *The Administrator shall review the application for completeness within 15 business days.*
  - A.*** *Upon determining that the application is complete, the Administrator shall submit the application to the Board and request that a CAFO Site Advisory Team be requested for review.*
  - B.*** *Upon determining that the application is not complete, the Administrator shall provide written notice of the deficiencies to the applicant. The Administrator may request additional information if deemed necessary to process the application. The application will not be considered complete until the deficiencies or additional information as identified by the Administrator are corrected. If the deficiencies are not corrected within 180 days, the application shall be deemed denied and no further action taken by the Administrator.*
  
- 2. HEARING AND NOTICE:*** *The Administrator shall submit the completed application and CAFO Advisory Team Determination to the Commission for one public hearing. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary to the proposed CAFO application shall be published in the official newspaper of the county. Fifteen (15) days prior notice shall also be provided by first class mail to all affected persons.*
  
- 3. CRITERIA FOR APPROVAL:*** *Prior to approval, the Commission must find that the new CAFO meets all requirements of this chapter including the following:*
  - A. General Requirements:***
    - i.*** *The CAFO applicant must comply with and not be in violation of any federal, state or county law pertaining to CAFO's or the requirements of an affected irrigation company, local fire protection district, or Oneida County Road and Bridge Department which directly applies to the operation of a CAFO. Violations which occurred prior to the application may be considered relevant by the Commission as evidence of continued non-compliance.*
    - ii.*** *The operator must not have begun construction of new facilities and improvements for, or commenced operations as a CAFO upon the land to be used as a CAFO, other than as previously authorized by prior permit.*
  - B. Waste Management:***
    - i.*** *If required by a State of Idaho agency having jurisdiction, a CAFO shall follow and be in compliance with a current nutrient management plan which has been approved by said agency.*
    - ii.*** *The required setbacks for all waste management facilities shall be met.*
    - ii.*** *That a CAFO shall have the lowest environmental risk rating by the CAFO Site Advisory Team. If a CAFO receives other than the lowest environment risk rating, the Board may consider during the approval process a letter from NRCS or comparable agency or firm showing whether and how the risk rating may be mitigated and applicant's ability to mitigate.*
    - iv.*** *Design and Construction: All new or modified liquid waste systems shall be designed by licensed professional engineers and constructed in accordance with standards and specifications either approved by the Idaho Department of Agriculture (ISDA) or in accordance with existing relevant Memorandums of Understanding with the Department of Environmental Quality. All persons shall submit plans and specifications for new or modified liquid waste systems to the director of ISDA for approval. A person shall not begin construction of a liquid waste system prior to approval of plans and specifications by ISDA. Idaho Code § 25-3805.*

- C. Water Quality:** *All CAFO applicants must demonstrate that:*
  - i. The CAFO will be in compliance with the Clean Water Act and any relevant federal or state regulation implementing the Clear Water Act in Idaho.*
  - ii. There will not be discharge of pollutants into surface or ground water except as permitted by the appropriate state and/or federal agency with jurisdiction. A copy of any permit from any agency relative to discharge of pollutants must be filed by the applicant with the Commission.*
  - iii. The applicant owns adequate and suitable water rights to operate. This must be evidenced by a permit or license from the Idaho Department of Water Resources.*
- D. ACTION BY THE COMMISSION:** *The Oneida County Planning and Zoning Commission shall render a decision on a CAFO application pursuant to this ordinance prior to being submitted to the Board for final approval.*
- E. ISSUANCE OF PERMIT:** *The Administrator shall issue a siting permit within fifteen (15) working days of approval of an application by the Board, and shall cause a notice of the issuance such permit to be placed on file in the office of the County Administrator of Oneida County within five (5) working days of issuance.*

## **11-9 ENFORCEMENT AND TERMINATION**

### **1. GENERAL PROCEDURE:**

- A.** *Whenever it has been determined that a violation of this chapter has occurred or is about to occur, Oneida County shall take action in accordance with the provisions of this chapter.*
- B.** *Complaints made by two or more individuals, having standing under state law and not residing at the same residence, shall be in writing and contain the nature of the complaint(s), name and address of the Confined Animal Feeding Operation, time(s) and date(s) of occurrence, and name and address and phone number of the complainant.*
- C.** *Complaints properly submitted for odor problems will be forwarded to the appropriate state agency for enforcement of state regulation for odor control.*
- D.** *Upon receiving a complaint the Administrator shall have the alleged complaint investigated.*
- E.** *Upon investigation of the alleged complaint the Administrator shall determine if a violation exists. If no violation exists the Administrator will notify the complainant within twenty (20) working days. If there is a violation the Administrator will take action in accordance with the provisions of this ordinance.*
- F.** *Upon determination that a violation exists the Administrator shall notify the owner/operator within ten (10) working days. Notice shall be effective when served by a peace officer.*
- G.** *The owner/operator shall respond to the administrator within ten (10) working days.*
  - i. If the violation can be corrected within twenty-eight (28) working days or less the response shall contain a description of the corrective action(s) and estimated time necessary for completion.*
  - ii. If the violation is such that it will require additional time to correct, the owner/operator will submit in writing within ten (10) working days of the above described notice a proposed compliance schedule for review and approval by the Administrator. The compliance schedule will explain in detail what actions will be taken to correct the violation(s) and a time schedule for completion.*
- H.** *The Administrator shall review the proposed compliance schedule and determine if the time requested is reasonable. The owner/operator shall be required to schedule and attend a meeting with the Administrator within ten (10) working days of submittal of the proposed compliance schedule.*

- I. In the event that a compliance schedule cannot be agreed upon, the Administrator shall then send the proposal to the Board for their review. The Board will review the proposal and recommendations of the Administrator and render a decision within thirty (30) working days.*
- J. Upon acceptance of the compliance schedule the Administrator shall contact the complainant with the decision and provide a copy of the schedule.*
- K. Failure of the owner/operator to meet the requirements of this section or abide by the proposed compliance schedule shall result in final enforcement action.*
- L. Any dispute that has to do with compliance issues need to be resolved by state, federal or county agency under whose jurisdiction it falls.*

**2. FINAL ENFORCEMENT AND/OR REVOCATION:**

- A. The Administrator may revoke a CAFO operating Permit if an owner/operator fails to comply with the conditions of such permit or the compliance schedule after thirty (30) days written notice of such non-compliance. Notice of such termination shall be served upon the owner/operator by a peace officer, which shall advise said owner/operator of the effective date of such termination and of his right to appeal such decision pursuant to Chapter 3 of this Development Code.*
- B. In the event the violation threatens the public health, safety and general welfare of the citizens of Oneida County, the Oneida County Board of County Commissioners may take any actions it deems necessary to abate such violation.*

**3. PENALTY FOR VIOLATION OF CAFO OPERATING PERMIT:** *Any owner/operator of a Confined Animal Feeding Operation who violates the conditions of the operating permit granted said operation shall be in violation of this Ordinance and subject to civil and criminal penalties as set forth in Chapter 3 of the Oneida County Development Code.*

**4. VOLUNTARY TERMINATION:** *An owner/operator of a Confined Animal Feeding Operation may voluntarily terminate a Confined Animal Feeding Operation permit by delivering to the Administrator a written termination notice.*

**5. TERMINATION NOTICES:** *The Administrator within five (5) days of its effective date shall record notice of the termination of a Confined Animal Feeding Operation permit in the office of the County Recorder of Oneida County, Idaho.*

**11-10 PERMIT APPLICATION FEES**

*The Board of County Commissioners shall establish a schedule of fees for CAFO operating permits.*

**ARTICLE 03: SEVERABILITY**

*This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.*

**ARTICLE 04: REPEAL OF CONFLICTING PROVISIONS**

*All provisions of current County ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.*

**ARTICLE 05: EFFECTIVE DATE**

*This ordinance shall be effective upon its passage and publication as provided by law.*

**PASSED, ADOPTED, APPROVED AND ENACTED** by the Board of County Commissioners as an ordinance of the County of Oneida on the 18<sup>th</sup> day of May, 2012.

COUNTY OF ONEIDA:



MAX C. FIRTH, Chairman  
Oneida County Board of Commissioners



CECIL C. SWEETEN, Member  
Oneida County Board of Commissioners



DALE F. TUBBS, Member  
Oneida County Board of Commissioners

ATTEST:



MATTHEW LON COLTON,  
Oneida County Clerk

## **CHAPTER 12**

### **WIND TURBINE**

*Ordinance No. 2011-05-01*

***AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, DECLARING POLICY AND PURPOSES; REQUIRING PERMITS FOR INSTALLING, CONSTRUCTING, OPERATING, AND MAINTAINING WIND TURBINES AND WIND ENERGY SYSTEMS; PROVIDING FOR STANDARDS, REQUIREMENTS AND SPECIFICATIONS THEREOF; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ORDINANCE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.***

***BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ONEIDA, IDAHO:***

#### ***SECTION 12-1: DECLARATION OF POLICY AND PURPOSE***

*The purpose of this ordinance is to provide certain minimum standards and requirements to protect and promote public health, safety, and welfare by establishing general standards by which to regulate and govern the installation, construction, and operation of wind turbines and wind energy systems and related facilities, within Oneida County, or by which to regulate and govern the same with Oneida County.*

#### ***SECTION 12-2: PERMIT REQUIRED***

*It shall be unlawful for any person to install, construct, or operate a wind turbine or wind energy system within the limits of Oneida County without first having obtained a permit as is herein required. Applicants shall complete permit applications, and related documents, and pay permit fees and costs in amounts to be determined from time to time by Resolution of the County Commission. All applications and permits required under this Ordinance require forms and fees to be completed and paid prior to a permit being issued, unless specified otherwise herein.*

#### ***SECTION 12-3: APPLICATIONS***

*Applications for such permits shall be made in writing to the Oneida County Clerk, 10 Court Street, Malad City, Idaho, and each application shall describe the kind of work to be done, the location of the intended project, the size thereof, the purpose thereof, the time when such work shall begin, the time when such work shall be completed, and the person doing the actual work and the name of the person for whom the work is being done. Each permit issued shall contain the foregoing information together with an agreement that the applicant will comply with all the provisions of this Chapter, all other laws relating to the work to be done and will not violate the terms and conditions of such permit. The terms and conditions of such permit and the work authorized to be done shall not be altered or varied without the prior written approval of the County.*

#### ***SECTION 12-4: SUPERVISION AND RESPONSIBILITY***

*The County Planning and Zoning Commission is charged with the responsibility for processing and recommending permits under the provisions of this ordinance. The County Commissioners are charged with the approval of the issuance of permits and by and through his/her/their agents shall from time to time inspect or cause to be inspected all installations, constructions, and operations of wind turbines and wind*

*energy systems and related facilities in order to ascertain compliance with the provisions of this ordinance and the permit granted hereunder.*

## **SECTION 12-5: GENERAL SPECIFICATIONS, STANDARDS, AND REQUIREMENTS**

*The following general specifications, standards, and requirements shall control all conduct or procedure of all persons or entities installing, constructing, operating, maintaining, or doing work in, on, upon, or in any way connected with wind turbines and wind energy systems within Oneida County:*

- 1. PERMIT. A conditional use permit is required for all medium and commercial wind turbines and wind energy systems. A building permit is required for all buildings associated with wind turbines and wind energy systems, and must comply with the currently adopted building code.*
- 2. SITE PLAN. Prior to approval, a detailed site plan shall be submitted by the applicant identifying all property lines, existing buildings, proposed buildings, parking areas, utilities, signs, neighboring properties, proposed transmission lines, any other information that may be reasonably required to determine if use is within the intent and requirements of this ordinance.*
- 3. DRAWING. Permit applications for wind turbines and wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. (This information is frequently supplied by the manufacturer).*
- 4. CONSTRUCTION TIMELINE. Prior to construction of a wind turbine or wind energy system, a written timeline of such project shall be submitted, identifying the starting and completion date of all construction.*
- 5. NOTICE TO UTILITY PROVIDERS. No wind energy shall be installed until evidence has been given that all affected utility companies have been informed of the applicant's intent to install an interconnected customer-owned turbine. Off-grid systems shall be exempt from this requirement.*
- 6. NO INTERFERENCE. Wind turbine tower facilities shall not be installed in any location where its proximity or operation would produce electromagnetic interference with signal transmission or reception of the following.*
  - A. Existing microwave communication links, or*
  - B. An existing fixed broadcast antenna used for radio, television, or wireless phone or other personal communication systems.*
- 7. SETBACKS. Each wind turbine shall comply with the following minimum setback requirements:*
  - A. Communication and electrical Lines: one and five-tenths (1.5) times its total height from the nearest above-ground public electric power line or telephone pole.*
  - B. Property Lines: one and five-tenths (1.5) times its total height from the nearest property line, unless mitigation has taken place and agreed to by owner/operator and affected property owners involved and recorded in the Oneida County Recorder's office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property.*

- C. Public Roads: One and five-tenths (1.5) times its total height from the nearest public road right-of-way.*
- D. Railroads: One and five-tenths (1.5) times its total height from all railroad right-of-ways.*
- 8. MINIMUM GROUND CLEARANCE. The tip of a wind turbine blade shall, at its lowest point, have a minimum ground clearance of no less than fifteen (15) feet.*
- 9. FAA COMPLIANCE. Wind turbines and wind energy systems shall comply with all applicable Federal Aviation Administration (FAA) standards. Towers shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.*
- 10. COLOR. Wind turbines shall be non-reflective, non-obtrusive color.*
- 11. NO ADVERTISING. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator. Any such identification shall not appear on the blades or other moving parts or exceed six (6) square feet.*
- 12. UNDERGROUND WIRING. All wiring between wind turbines and associated substations shall be underground.*
- 13. ACCESS. Wind turbines shall not be climbable up to fifteen (15) feet above ground level. All access doors to the wind turbine towers and electrical equipment shall be lockable, and locked when unattended.*
- 14. SIGNAGE. Appropriate warning signage shall be placed on all wind turbine towers, electrical equipment and facility entrances.*
- 15. Wind Turbine Tower facilities shall be located with relation to property lines so that the level of noise produced during any wind turbine operation shall not exceed 45 DBA measured at the boundaries of all adjacent parcels that are owned by non-site owners or at any point past the property line. It will be the responsibility of the property owner to test the DBA level.*

## **SECTION 12-6: ADDITIONAL PROVISIONS**

### **1. SMALL WIND TURBINES**

- A. A small wind turbine shall consist of a monopole tower of a total height of less than sixty-five (65) feet.*
- B. Small wind turbines will not be regulated by the county.*

### **2. MEDIUM WIND TURBINES**

- A. A medium wind turbine shall consist of a monopole tower of a total height between sixty-five (65) feet and one hundred fifty (150) feet, and the nameplate capacity of a medium wind turbine is less than one hundred (100) kilowatts.*
- B. Private wind turbine towers shall be allowed only on lands with a minimum site area of one acre. A maximum of three towers will be allowed per parcel with one acre required for each tower.*

### 3. COMMERCIAL WIND TURBINES

A. A commercial wind turbine shall consist of one or more towers where at least one tower exceeds one hundred fifty (150) feet in height or the nameplate capacity exceeds one hundred (100) kilowatts.

B. Commercial wind turbines and wind energy systems shall comply with the following additional standards and requirements:

a. **SETBACKS:**

i. **COMMUNICATION AND ELECTRICAL LINES:** one and five-tenths (1.5) times its total height from the nearest aboveground public electrical power line or telephone line.

ii. **INHABITED STRUCTURES:** three (3) times total height, line of sight from the nearest existing residence, school, hospital, church, place of employment or public library, unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Oneida County Recorder's office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property.

iv. **PROPERTY LINE:** one and five-tenths (1.5) times total height from the nearest property line, unless mitigation has taken place and agreed by owner/operator and affected property owners involved and recorded in the Oneida County Recorder's office which describes the benefitted and burdened properties and which advises all subsequent owners of the burdened property, but not closer than one (1) times full height.

v. **RAILROADS:** one and five-tenths (1.5) times its total height from all railroad right-of-ways.

b. **SPACING.** Wind turbines shall have a minimum separation distance of one and two-tenths (1.2) times the total height of the tallest wind turbine for mother wind turbines.

c. **MINIMUM GROUND CLEARANCE.** The tip of a turbine blade shall at its lowest point have a ground clearance of no less than seventy-five (75) feet.

d. **DESIGN.** The design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility to the natural setting and existing environment.

e. **USE OF PUBLIC ROADS DURING CONSTRUCTION.** Routes of public travel to be used during the construction phases shall be documented by the Oneida County Road Department. The public travel route will be re-inspected thirty (30) days after project completion. Any and all repairs must be completed within ninety (90) days of end of construction project.

f. **BOND.** An appropriate continuous renewable bond amount will be set and posted for each wind turbine for decommissioning should the owner/operator fail to comply with the requirements of this ordinance, or should the wind turbine not operate for a period of twelve (12) consecutive months.

- g. *RESPONSIBILITY FOR RECLAMATION. A signed statement by the landowner acknowledging that the landowner is financially responsible if the owner/operator fails to reclaim the site as required and that any removal and reclamation costs incurred by the County will become a lien on the property and may be collected from the landowner in the same manner as property taxes.*
- h. *COMPLIANCE WITH OTHER AUTHORITIES. Evidence of compliance with FAA, United States Fish & Wildlife services, Idaho Fish & Game, DEQ, and the appropriate fire department must be submitted by the applicant to the Planning & Zoning Department prior to the issuance of a building permit. If an area is identified by Fish & Wildlife Services to house a significant bird population, a monopole tubular type tower shall be used instead of lattice-type towers.*
- i. *PHASED PROJECT. If project will be developed in phases, the phase lines must be identified on the detailed site plan. Each phase must be completed within twelve (12) consecutive months or the project will become null and void and the owner/operator must reapply and comply with current regulations.*
- j. *LIABILITY INSURANCE. Prior to the issuance of a building permit for a commercial wind turbine tower and continuing after construction until such facility is removed from the site, the applicant shall provide documentation satisfactory to the County, and at such other reasonable intervals as determined by the County, of the existence of liability insurance coverage with a minimum \$1,000,000.00 for property damages, injury or death resulting from the construction, placement, use, maintenance, and operation of a wind generation facility, by the owner of the site.*
- k. *VISIBILITY. Commercial generating facilities shall provide a digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations throughout the region, to a distance of five (5) miles from the center of the project. The scale used shall depict a 3-mile radius no smaller than 2 inches, and the base map shall be a published topographic map showing cultural features and other landmarks.*
- l. *PHOTOGRAPHS. Color photographs, at least 3 inches x five inches, taken from several locations within a three-mile radius of the boundaries of the commercial facility site shall be provided. Said photographs shall be computer enhanced to stimulate the appearance of the as-built above-ground site facilities as such would appear from said locations.*

## **SECTION 12-7: PENALTIES**

*Any person, firm, partnership, corporation, association, other entity, or combination or group thereof who violates any provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding three hundred dollars (\$300.00) or imprisonment in the County Jail of not more than thirty (30) days, or by both such fine and imprisonment.*

**SECTION 12-8: SEVERABILITY**

*This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.*

**SECTION 12-9: REPEAL OF CONFLICTING PROVISIONS**

*All provisions of current county ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict. Oneida County Ordinance No. 2010-12-001 is hereby repealed in its entirety.*

**SECTION 12-10: EFFECTIVE DATE**

*This ordinance shall be effective upon its passage and publication as provided by law.*

**PASSED, ADOPTED, APPROVED AND ENACTED** by the Board of County Commissioners as an ordinance of the County of Oneida on the 9<sup>th</sup> day of May, 2011.

COUNTY OF ONEIDA:

  
CECIL C. SWEETEN, Chairman  
Oneida County Commission

  
DALE F. TUBBS,  
Oneida County Commissioner

  
MAX C. FIRTH,  
Oneida County Commissioner

ATTEST:

  
MATTHEW LON COLTON,  
Oneida County Clerk

**SUMMARY OF  
ONEIDA COUNTY, IDAHO  
ORDINANCE NO. 2011-05-01**

***AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF THE STATE OF IDAHO, DECLARING POLICY AND PURPOSES; REQUIRING PERMITS FOR INSTALLING, CONSTRUCTING, OPERATING, AND MAINTAINING WIND TURBINES AND WIND ENERGY SYSTEMS; PROVIDING FOR STANDARDS, REQUIREMENTS AND SPECIFICATIONS THEREOF; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ORDINANCE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.***

*A summary of the principal provisions of Ordinance No. 2011-05-01 of Oneida County, Idaho, adopted on May 9, 2011, is as follows:*

***Section 12-1:*** Provides for and defines declaration of policy and purpose.

***Section 12-2:*** Provides for and declares it to be unlawful to install, construct, maintain, or operate a wind turbine or wind energy system within Oneida County, Idaho without a permit.

***Section 12-3:*** Provides for and describes permit application parameters, procedure, and process.

***Section 12-4:*** Provides for and authorizes which Oneida County entities or agents shall govern, supervise, and regulate the permit application procedure as well as the installation, construction, maintenance, and operation of wind turbines and wind energy systems within Oneida County, Idaho.

***Section 12-5:*** Provides for and defines general specifications, standards, and requirements which shall control all conduct or procedure of persons or entities installing, constructing, operating, maintaining or doing work in, on, or in any way connected with wind turbines or wind energy systems within Oneida County, Idaho.

***Section 12-6:*** Provides for and defines additional specifications, standards, and requirements which shall control all conduct or procedure of persons or entities installing, constructing, operating, maintaining or doing work in, on, or in any way connected with wind turbines or wind energy systems within Oneida County, Idaho.

***Section 12-7:*** Provides for and defines penalties associated with a violation of the ordinance.

***Section 12-8:*** Provides for severability of the provisions of the ordinance.

***Section 12-9:*** Provides for the repeal of conflicting provisions and ordinances.

***Section 12-10:*** Provides for publication and effective date of the ordinances.

*The full text of Ordinance No. 2011-05-01 is available at the office of the County Clerk and will be provided to any citizen upon personal request during normal office hours.*

ONEIDA COUNTY:

  
CECIL C. SWEETEN, Chairman  
Oneida County Commission

ATTEST:

  
MATTHEW LON COLTON, Clerk

### CERTIFICATION OF CLERK

I, the undersigned Clerk of Oneida County, Idaho, hereby certify that I have read the aforesaid Summary of Ordinance No. 2011-05-01 of Oneida County, Idaho, and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

DATED this 9 day of May, 2011.

  
MATTHEW LON COLTON,  
Oneida County Clerk

## **APPENDIX A**

### **CHAPTER 13**

#### **DETAILED PERFORMANCE STANDARDS FOR COMMERCIAL SIGNS**

**Purpose.** This chapter establishes regulations for the location, type, and size of signs permitted.

**Permit Required.** A Class I permit shall be required for the placement or installation of any sign, including the replacement of any existing sign. The location, type, and size of all proposed signs shall be included in applications for special use permits.

#### **PERFORMANCE STANDARDS**

Placement of Signs. No sign shall be placed:

1. In or over any public right-of-way.
2. On a utility pole.
3. On a vehicle or trailer parked in a visible location on a public right-of-way for the primary purpose of displaying the sign.
4. Where it creates a traffic safety hazard by obscuring traffic control signs or signals or obstructing vision at intersections or driveways.

**Signs in Public Rights-of-Way.** No sign shall be placed in any public right-of-way, except traffic control signs and public notices placed by public agencies. No sign shall extend over a public right-of-way, except that awnings and projecting signs may extend up to four feet over a public sidewalk, and suspended signs may be extended over a public sidewalk that is covered by an arcade or canopy. Any sign extending over a public sidewalk shall have a minimum clearance of eight feet.

**Permitted Signs.** The following signs shall be permitted. All other signs are expressly prohibited.

1. Home occupation signs are permitted by Chapter 3 Permit Procedures.
2. For commercial uses:
  - A. One construction sign of more than six square feet, provided that the sign is not placed until construction begins and that it is removed within 30 days after the end of construction;
  - B. Necessary on-site directional signs of more than four square feet each;
  - C. Window signs that occupy more than 20% of any window; and
  - D. Any combination of the following kinds of signs, provided that the total sign area exceeds 10% of the area of the building facade facing a road frontage:
    - i. Wall signs.
    - ii. Projecting signs with more than 16 square feet per side.
    - iii. One ground or pole sign for each road frontage of more than 25 feet in height and with more than 24 square feet per side.
4. Commercial uses with no highway frontage having two directional signs of more than 12 square feet each.

**Illuminated Signs.** Signs with a constant source of illumination shall be permitted for commercial uses. No flashing, blinking, or moving signs are permitted. Spotlights or other fixtures used for the illumination of a

sign shall be placed in compliance with the provisions of this ordinance prohibiting light or glare that constitutes a nuisance and shall not constitute a traffic hazard.

**Identification of Signs.** All off-site signs shall bear a weatherproof label identifying their owner, including the owner's name, mailing address, and telephone number. Identification labels may be attached to the sign or its supporting structure.

**Maintenance of Signs.** All signs and their supporting structures shall be maintained so as not to create a health or safety hazard.

**Abandoned Signs.** Abandoned signs shall be removed within sixty days of the adoption of this ordinance, or within 60 days of the abandonment of the use of which the sign is appurtenant. Abandonment shall not be a matter of the owner's intent, but shall be considered to occur whenever a use ceases operation for more than one year. Any sign that is not structurally sound or that no longer serves to inform or attract the public shall be considered abandoned and its removal required.

~~APPENDIX B—A SECTION OF THE IDAHO CODE ESTABLISHING REQUIREMENTS FOR THE SUBDIVISION OF IRRIGATED LANDS~~

~~Purpose. The purpose of this appendix is to provide ordinance users with a copy of a section of the Idaho Code for reference purposes.~~

~~IC 31-3805. Delivery of water.~~

~~When either a subdivision within the meaning of Chapter 13, Title 50, Idaho Code, or a subdivision subject to a more restrictive county or city zoning ordinance is proposed within the state of Idaho, and all or any part of said subdivision would be located within the boundaries of an existing irrigation district or other canal company, ditch association, or like irrigation water delivery entity, hereinafter called “irrigation entity” for the purposes of this section, no subdivision plat will be accepted, approved, and recorded unless:~~

~~1. The water rights appurtenant and the assessment obligation of the lands in said subdivision which are within the irrigation entity have been transferred from said lands or excluded from an irrigation district by the owner thereof, or by the person, firm, or corporation filing the subdivision plat; or~~

~~2. The owner or person, firm or corporation filing the subdivision plat has provided for underground tile or other like satisfactory underground conduit to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity, with the following appropriate approvals:~~

~~A. For proposed subdivisions within the incorporated limits of a city, the irrigation system must be approved by the city zoning authority and the city council with the advice of the irrigation entity charged with the delivery of water to said lands.~~

~~B. For proposed subdivisions located outside incorporated cities but within one (1) mile outside the incorporated limits of any city, both city and county zoning authorities and city council and county commissions must approve such irrigation system in accordance with Section 50-1306, Idaho Code. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.~~

~~C. For proposed subdivisions located in counties with a zoning ordinance, the delivery system must be approved by the appropriate county zoning authority and the county commission with the advice of the irrigation entity charged with the delivery of water to said lands.~~

~~-75-~~

~~3. In the event that the provisions of either subsections of this section have not been complied with, the assessments of the irrigation entity for operation, maintenance, construction, and other valid charges permitted by statute shall in no way be affected; however, any person, firm, or corporation or any other person offering such lots in such subdivision for sale or selling such lot shall, prior to the sale, advise the purchaser in writing as follows:~~

~~A. That water deliveries have not been provided; and~~

~~B. That the purchaser of the lot must remain subject to all assessments levied by the irrigation entity; and~~

~~C. That the individual purchaser shall be responsible to pay such legal assessments; and~~

~~D. That the assessments are a lien on the land within the irrigation entity; and~~

~~E. That the purchaser may at a future date petition the appropriate irrigation entity for exclusion from the irrigation district.~~

~~4. A disclosure statement executed by the purchasers and duly acknowledged,~~

containing the representations required in this subsection of this section, shall be obtained by the seller at the time of receipt of the earnest money from the purchaser and affixed to the proposed sales contract; and a copy thereof shall be forwarded to the appropriate irrigation entity.

~~IC 31-3806. Civil Action to enforce.~~

~~If the owner of the property or the person, firm, or corporation filing the subdivision plat fails to comply with either subsection (1)(a) or (1)(b) of Section 31-3805, Idaho code, prior to sale of lots in the subdivision to purchasers, the owner of the property or the person, firm or corporation filing the subdivision plat shall be liable to any purchaser for the costs of the lot's exclusion plus all assessments due and owing of the actual cost of installation of an irrigation delivery system not to exceed one thousand five hundred dollars (\$1,500) per lot. The purchaser shall have a right to enforce this obligation in a civil action, and the purchaser shall have the right to elect exclusion or installation of the system in such action.~~

~~Any person, firm or corporation who shall omit, neglect, or refuse to provide the purchaser or the irrigation district within whose boundaries the land is located, a copy of the disclosure statement required by subsections (2)(a) and (2)(b) of Section 31-3805,~~

~~Idaho Code:~~

~~-76-~~

~~1. Shall be liable to the purchaser as provided in subsection (1) of this section.~~

~~2. Shall be liable to the irrigation district for its reasonable expense, including employee time, of locating the purchaser and providing the information required in the form, and for advising affected purchasers of the lack of a water delivery system, and for any assessments on the property that are past due at the time of discovery of the violation. The irrigation district affected shall have a right to claim such expenses in a civil action.~~

~~In any civil action filed under subsection (1) or (2) of this section, the prevailing party shall be awarded its reasonable costs and attorney's fees; and the purchaser and irrigation district shall have two (2) years from the date of discovery of the violation to initiate any action.~~

APPENDIX C

**CHAPTER 14**

**DETAILED PERFORMANCE STANDARDS FOR NOISE**

**Maximum Sound Levels.** No development that creates excessive levels of sound beyond its property line shall be permitted. Excessive sound, measured at the property line of the receiving use, exceeds the standards of as established within the following table.

RECEIVING USE	MAXIMUM SOUND LEVEL
Residential	60 dBA, 7:00 A.M. to 10:00 P.M. 50 dBA, 10:00 P.M.>to 7:00 A.M.
Commercial, Industrial	70 dBA, Any time

Note: “dBA” is the measure of sound levels in A-weight decibels.

**Applicability.** This performance standard applies to sounds generated by the occupancy or operation of a development, including sound generated by the operation of trains, motor vehicles, and heavy equipment on the site. It does not apply to the movement of trains on existing railroad rights-of-way, the movement of motor vehicles on public roads, the operation of farm machinery, the operation of watercraft, or other sources of noise that are not attributable to a particular development.

**Temporary Exception.** The maximum sound levels of the above Table may be exceeded by temporary construction and maintenance activities, but any excessive noise generated by such activities shall be restricted to the hours between 7:00 A.M. and 10:00 P.M.

## ~~APPENDIX D – DETAILED PERFORMANCE STANDARDS FOR HOME OCCUPATIONS~~

~~Purpose. These performance standards will permit limited commercial activity in residential areas, while assuring that such activity does not diminish the residential character of the neighborhood. Approval of a home occupation does not change any requirement of this Ordinance that is applicable to the dwelling to which it is accessory.~~

~~Maximum Floor Area. Home occupations may be located within dwellings or accessory buildings, but no home occupation shall occupy a floor area larger than that of the dwelling to which it is accessory.~~

~~Nonresident Employees. No home occupation shall have more than two employees who are not a member of the resident family.~~

~~Off Street Parking. Home occupations shall provide off street parking for all employees and any vehicles associated with the home occupation.~~

~~Outdoor Storage. The storage of any materials or solid waste associated with a home occupation shall be: a) within an enclosed structure, or b) within an area that is effectively screened from public view.~~

~~Signs. Home occupations shall display only the following signs: a) one nonilluminated wall sign of no more than six square feet, and b) one nonilluminated on site directional sign of no more than four square feet.~~

## **APPENDIX E**

### **CHAPTER 15**

#### **DETAILED PERFORMANCE STANDARDS FOR BUFFERING**

**Purpose.** Landscaping requirements are an essential element in mitigating potential land use conflicts and enhancing the visual appeal of the county. The purpose of this chapter is to assure that the landscaped buffers required by these regulations effectively accomplish those goals.

**Minimum Buffer Requirements.** The width of required buffers shall vary with the nature of the uses being separated, the height of the buildings being separated, and the construction of the buffer, as shown in the Table. The basic buffer width given in that table is the width required where the buffer consists of a level or gently sloping area of sod or ground cover and at least four major trees per hundred lineal feet of buffer. That table also shows where a security fence and/or a solid fence, wall, or berm is required as part of a buffer.

**Height Adjustment.** The basic buffer width shall be increased by the height adjustment factor, where one is established. The height adjustment factor is a ratio expressing the number of feet that must be added to the basic buffer width for each foot in height over 25 feet of the building being buffered.

**Buffer Width Reduction: Berms.** The basic buffer width requirements may be reduced where a berm is included in the buffer. The width reduction shall be twice the height of the berm, but the maximum permitted reduction shall be 10 feet. No berm shall have a slope of more than 3:1 except where a retaining wall is incorporated into the berm on the side opposite the use or public way being buffered.

**Buffer Width Reduction: Additional Plantings.** The basic width requirements may be reduced where a greater density and diversity of plantings is included in the buffer. The buffer width reductions permitted in this section are cumulative and may result in a total reduction of up to 30%. The buffer width reductions permitted by are also cumulative with those permitted here.

1. Major Trees. The required buffer width shall be reduced by 10% where five or more major trees per hundred lineal feet are planted or retained.
2. Shrubs. The required buffer width shall be reduced by 10% where 20 or more shrubs per hundred lineal feet are planted or retained.

**Minimum Buffer Width.** No required buffer shall be less than half the basic buffer width or less than 10 feet in width, regardless of any reductions permitted.

**Buffer Crossings/Inclusions.** Buffers may be crossed by access driveways, utility lines, sidewalks, and pedestrian trails. A sidewalk or pedestrian trail may also run along the length of a buffer, with its width, up to a maximum five feet, being included in the required buffer width. Buffers may also include permitted signs.

**Plant Materials Specifications.** Plant materials installed in required buffers shall be warranted for one year and meet the following specifications: a) all trees shall be containerized or bagged and burlapped stock in good condition with a caliper of at least 1.5 inch, measured one foot above grade, for deciduous trees, and a height of at least six feet for coniferous trees; and b) all shrubs shall be minimum one gallon containerized stock in good condition.

**Maintenance.** Perpetual maintenance of required buffers is required.

TABLE F.1 - BUFFERING REQUIREMENTS

TYPE OF DEVELOPMENT	DEVELOPMENT TYPE OF AREA	BASIC BUFFER WIDTH	HEIGHT ADJUSTMENT	HEADLIGHT BUFFER	SECURITY FENCE REQUIRED
Industrial	Residential, platted residential lots	50	0.0423611111	For Parking	Yes
Industrial	Any Public Way	12	None	No	Yes
Industrial or Commercial	Adjoining Visually Sensitive Area	50	0.0423611111	No	No
Commercial	Residential, Platted Residential Lots	20	.75:1	For Parking	No
Commercial Outdoor Material Storage, Handling, or Sales Areas over 10,000 SF	Residential, Platted Residential Lots	50	None	Yes	Yes
Commercial Outdoor Materials Storage, Handling, or Sales Areas, any size	Any Public Way	12	None	No	Yes
Higher Density Residential	Lower Density Residential, Platted Residential Lots	20	.80:1	For Parking	No
Residential	Visually Sensitive Area	20	None	None	No

APPENDIX F

CHAPTER 16

DETAILED PERFORMANCE STANDARDS FOR THE DESIGN AND CONSTRUCTION OF ROADS

Purpose. The purpose of this chapter is to provide standards for the construction or reconstruction of roads. These standards are for roads in low to medium density residential and light commercial areas. A large scale development study will be required for any development that generates sufficient traffic to necessitate additional construction requirements.

Large Scale Development. Any requirement of this chapter may be altered as a result of a large scale development study required by this ordinance.

Division 1 - Street Design

Right-of-Way and Surface Width. Road right-of-way and surface widths shall be as required by Table G.1.

TABLE G.1 - LOCAL ROAD STANDARDS

Table with 5 columns: SLOPE, UNITS SERVED, MINIMUM RIGHT-OF-WAY WIDTH, MINIMUM SURFACE WIDTH, and MAXIMUM cul-de-sac LENGTH. It lists standards for various slope percentages and unit counts.

Notes: "Slope" refers to the slope on which the road is proposed, not to the grade of the road itself. Where one-way circulation systems are used, the developer shall install "one-way" and "do not enter" signs in the appropriate locations at U intersections.

Right-of-Way Treatment. The entire required right-of-way should not be cleared. Grading should be confined to the minimum area necessary for construction of a properly drained road surface. Where a road passes through brush vegetation that creates a wildfire hazard, the entire right-of-way shall be treated as a fuel reduction area where brush is thinned to a density where crowns do not overlay or touch and ladder fuels are removed. Construction slash shall be removed from the right-of-way along with other fuels.

Surface Construction. Road surfaces shall be laid over a properly compacted sub-grade and consist of: a) a sub-base of a minimum six inches of coarse aggregate; and b) a base of a minimum two inches of crushed coarse aggregate. Roads may be paved, but paving is not required by this ordinance.

**Drainage.** Road surfaces shall be crowned so as to slope away from the centerline at a grade of two percent. Shallow, parabolic drainage and snow storage areas shall be provided along all roads. These drainageways shall be reseeded after construction.

**Maximum Grade.** The maximum grade of any road shall be eight percent except at intersections.

**Cul-De-Sac.** A cul-de-sac may be used, with the maximum length permitted by Table G-1 and a width of 60 feet. Other dead-end streets shall be prohibited, except where temporarily permitted by a subdivision phasing plan, or to provide for future connections between developments. A temporary cul-de-sac shall be provided wherever a temporary dead-end street serves four or more lots.

**Minimum Centerline Radius of Curves.** The minimum centerline radius of curves shall be 100 feet.

### **Division 2- Intersection Design**

**Clear Sight Distance.** Clear vision triangles shall be provided as follows:

1. At intersections: The clear vision triangle includes the area defined by extending a line between two points, one on each lot line paralleling the road, each of which is 30 feet from the lot corner at the intersection; and
2. At other points of access: The clear vision triangle includes the area defined by extending a line between two points, one on the lot line paralleling the road and one on the outer edge of the driveway, each of which is 15 feet from the point where the driveway crosses the lot line.
3. No solid fence or wall, planter, hedge, shrub, or other visual obstruction more than three feet in height above the grade of the adjoining roads shall be permitted within a clear vision triangle.
4. No parking shall be permitted in a clear vision triangle.
5. Trees shall be permitted in clear vision triangles, but only if all branches are removed to a height of at least seven feet above grade.

**Grade at Intersection.** The maximum grade at and within 50 feet along both approaches to any intersection shall be three percent.

**Alignment of Intersection.** All intersections shall be at a 90 degree angle, with both approaches running at 90 degrees for at least 50 feet before the intersection.

**Minimum Centerline Offset of Intersections.** The minimum centerline offset of intersections shall be 125 feet except for intersections with arterial, where it shall be 200 feet.

**Signs.** The developer shall install stop signs at all intersections with arterial streets. The developer shall also install all other signs required for safe traffic and pedestrian movement in the subdivision.

### **Division 3 - Additional Standards**

**Culverts and Bridges.** All culverts and bridges shall be designed by a professional engineer. Bridges and culverts are subject to the stream corridor and floodplain requirements of this ordinance.

1. All bridges and culverts on natural watercourses shall be designed to pass a 100 year flood without damage to the bridge OT (overtopping) or its approaches, without diverting floodwater onto neighboring properties, and without increasing the level of the base flood downstream.
2. The developer may be required to install a bridge rather than a culvert on any natural watercourse where such action is required, on the advice of the Idaho Fish and Game Department, to protect the fishery.
3. Culverts shall be designed to pass the runoff from the 10 year, 6 hour storm.
4. All culverts and bridges shall be designed to support a minimum gross vehicle load of 40,000 pounds.
5. There shall be a minimum 50 foot, 90 degree approach to all bridges.

**CHAPTER 17**

**DETAILED PERFORMANCE STANDARDS FOR  
THE PLATTING OF LOT SPLITS AND SUBDIVISIONS**

**Purpose.** This chapter establishes standards for the form and content of subdivision plats. The requirements imposed are in addition to the requirements of state law.

**Preliminary Plat Part of Application.** A preliminary plat is one part of the application for a Class II permit to subdivide and shall accompany the official application form and all other materials required for a complete application.

**Preliminary Plats to Be Comprehensive.** Preliminary plats shall cover the entire area to be developed by one owner or a group of related or associated owners, even when it is anticipated that development will be phased or occur in the form of multiple subdivisions over several years. An application for a subdivision permit may be rejected as incomplete solely because it covers insufficient area.

**Contents of Preliminary Plats.** Preliminary plats shall include:

1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number of the engineer or land surveyor who prepared the preliminary plat.
3. A north point and both graphic and written scales.
4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision; and the boundaries of and recorded names of all adjacent or nearby subdivisions.
5. The location, nature, and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways or easements.
6. The location and size of all existing utility lines in or adjacent to the proposed subdivision.
7. The exterior boundaries of the proposed subdivision.
8. The location, exterior dimensions, and number of proposed lots and blocks or other parcels created by the subdivision.
9. The acreage of each proposed lot and a table showing the total acreage of the area proposed for subdivision, the total acreage in lots, the total acreage in streets, and the total acreage of parcels proposed for dedication to public use or to be held in common by the lot owners.
10. The names of all proposed streets and widths and boundaries of all proposed street rights-of-way and utility easements.

11. The location of all irrigation structures, watercourses, and wetlands within or adjacent to the proposed subdivision.
12. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance.
13. Any other information required by this ordinance.

**Scale and Dimensions.** Preliminary plats shall be prepared at a scale of one inch equals one hundred feet; all dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map which may be combined with the vicinity map. The vicinity and index maps shall appear on the first of the serially numbered sheets.

## **FINAL PLATS**

**Contents of Final Plats.** All final plats submitted shall be prepared in compliance with Chapter 13, Title 50 of the Idaho Code, as amended, and shall include all information listed below:

1. A title block showing the name of the subdivision and its location by quarter- quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number or seal of the engineer or land surveyor who prepared the plat and that person's certification that the plat is accurate and that the monuments described in it have been located and/or established as described.
3. A north point and both graphic and written scales.
4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision; and the boundaries of and recorded names of all adjacent or nearby subdivisions.
5. The point of beginning for the subdivision survey, which shall be a section or quarter section corner.
6. The location and a description of all existing monuments found during the course of the survey.
7. The location, nature, and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the subdivision, including the county book and page number references of the instruments establishing those ways or easements.
8. The exterior boundaries of the subdivision, with all bearings and distances, including curve data for curving boundaries;
9. The location, exterior dimensions, and number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries.
10. The location and a description of all monuments established during the course of the survey.
11. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance;

- A. The acreage of each lot and a table showing the total acreage of the subdivided area, the total acreage in lots, the total acreage in streets, and the total acreage of any parcels dedicated to public use or held in common by the lots' owners;
12. The names of all streets and widths and boundaries of all street rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;
13. A signed and dated owner's certificate which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all public ways and other public spaces to public use.
14. A public notary's acknowledgment of the owner's certificate.
15. A signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest, including the holders of mineral rights, in the property consent to its subdivision.
16. A public notary's acknowledgment of the certificate of consent.
17. A certificate for signature by the county treasurer stating that all real property taxes due on the land being subdivided have been paid.
18. Certificates for plat approval by the Commission and Board.
19. A statement of "sanitary restriction", as required by I.C. 50-1326.
20. A certificate for use by the county recorder in recording the plat after its approval.
21. Any other information required for compliance with this ordinance.

**Scale and Dimensions.** Final plats shall be prepared at the scale of one inch equals one hundred feet, and all dimensions shown shall be in feet and decimals thereof. Plats of large areas may be prepared on multiple, serially numbered sheets with match lines and a sheet index map, which may be combined with the vicinity map. All required certificates and the vicinity and index maps shall appear on the first of the serially numbered sheets.

**Copy.** The developer shall also provide the county with one reproducible copy of the final plat suitable for photographic reproduction and reduction.

**CHAPTER 18**

**DETAILED PERFORMANCE STANDARDS FOR  
GRAVEL MINING**

**Purpose.** The purpose of this chapter is to provide reasonable assurance that future gravel mining operations will not adversely affect neighboring uses.

**Permit.** No gravel mine will be permitted within 600 feet of an existing residence or a platted residential subdivision.

**Road Capacity.** No gravel mining shall be permitted where existing roads and/or bridges do not have adequate capacity to support the anticipated truck traffic.

**Buffer Required.** A buffer area of at least 50 feet wide shall be provided between all operating areas of the mine, including parking, storage, etc., and the property line. No existing vegetation that has buffering capacity shall be removed from a required buffer.

**Operating Hours.** Wherever a proposed gravel mine is within 1320 feet of an existing residence or a platted residential subdivision, mining operations shall be limited to the daylight hours. The noise level at the property line shall be limited to 70dBA.

**Groundwater Protection.** No gravel mine shall penetrate an aquifer. A variance of this performance standard may be considered, but only where a professionally- prepared plan for the prevention of aquifer pollution is implemented. Any such plan shall, at a minimum, require the diversion of surface runoff from the excavation, the installation and maintenance of vegetative filter strips around the excavation, and the minimization of the area of aquifer surface exposed at any one time.

**Reclamation.** The reclamation plan (reclamation plans are required by I.C. 47- 1501., et.seq.) for the gravel mine shall show how the site will be reclaimed to a condition where it can be used for a compatible use. Reclamation that fulfills the requirements of state law shall generally be acceptable outside areas of city impact. In those areas of city impact where there is a comprehensive plan, the reclaimed site shall be suitable for a use permitted by that plan.

**APPENDIX H**  
**APPENDIX A - RESOURCE MANAGEMENT AGREEMENT**  
**(RIGHT-TO-FARM)**

**Purpose.** This appendix provides a model for the resource management agreements required upon all agricultural lands within the County.

**Resource Management Agreement.**

(“Grantors”) are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Oneida county, dated (date), approving a Class I/Class II Permit for residential development on the above described property, and in consideration of such approval, Grantors grant to the owners of all property adjacent to the above described property, a perpetual nonexclusive agreement as follows:

1. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this agreement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantor’s use of Grantors property for residential purposes. Grantors recognize that all roadways in Oneida County may serve as trails for the movement of cattle and that the only protection from intrusion is a well maintained fence including gates and/or cattle guards. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors’ use of Grantors’ property for residential purposes and grantors hereby grant an agreement to adjacent property owners for such activities.

2. Nothing in this agreement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this agreement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties. This agreement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this agreement.

IN WITNESS WHEREOF, the Grantors have executed this agreement on \_\_\_\_\_  
(date).

\_\_\_\_\_  
Grantor

State of Idaho  
County of Oneida

This instrument was acknowledged before me on (date) by (grantors) (signature),

\_\_\_\_\_  
Notary Public,

\_\_\_\_\_  
My Commission Expires (date)

## ~~APPENDIX J—ORDINANCE FOR BUILDING CODE ADOPTION~~

### ~~Section 1: Building Code Adoption~~

~~The Uniform Building Code, latest edition as copyrighted by the International conference of Building Officials, shall be adopted by Oneida County and shall be the minimum construction standard for all structure built within the County, with all appendices and by adding the following exceptions, agricultural structures, and utility buildings:~~

### ~~Section 2: Building and Zoning Permit Required~~

~~A.~~

#### ~~Residential Building Permit~~

~~A permit from the county is required to erect, construct or enlarge any stick built home, manufactured home, garage. Constructed storage or utility buildings under 200-120 square feet shall not require a permit. All permitted structures shall be inspected by the County Building Inspector to insure that Uniform Building Code construction standards are met. The County shall be bound by the provisions of the and state laws regulating buildings. An approved building permit shall be posted on the site prior to the commencement of any construction.~~

~~B.~~

#### ~~Agricultural Farm Building~~

~~A zoning permit from the county is required to erect, construct, or enlarge agricultural farm buildings as governed by the Local Land Use Planning Act found in Idaho Code 67-65. Inspection by the County Building Inspector is not required.~~

~~C.~~

#### ~~Commercial Operations/Development Permit.~~

~~A permit from the county is required to erect, construct or enlarge any commercial operations/development buildings or facilities. In addition, a public hearing may be required to insure that commercial operations/development is compatible with the area in which it is to be located. Inspection by the County Building Inspector is required.~~

~~D.~~

#### ~~Temporary Parking Permit for Recreational Vehicles (RV's).~~

~~Inspection by the County Building Inspector will visit the site as often as required.~~

~~-94-~~

### ~~Section 3: Permits Fees~~

~~Except as otherwise specified, all building permit fees shall be set by resolution of the Oneida Commissioners. Permit fees are non-refundable. Exception: Up to 80% of the fee paid may be refundable if the permit has not expired.~~

### ~~Section 4: Penalty and Violation~~

~~Unless otherwise prescribed, violations of this chapter are a misdemeanor and shall be punished by a fine not exceeding three hundred dollars a day for each day of the violation or imprisonment for a term not exceeding six months, or both such fine and imprisonment.~~

### ~~Section 5: Permit Revocation~~

~~In case of violation of any of the provisions of this chapter or further regulations of the City by any person holding a required permit and after such violator has been given written notice of such violation and has failed to correct the violation within the time specified in the notice, the County, or their authorized representative, may declare the license revoked and notify the permittee. Any permittee who has had his permit so revoked shall not be issued another permit until said violation has been corrected. Any revocation may be appealed to the County Commissioners within thirty (30) days from the date notice of revocation is given to permittee.~~

#### Section 6: Failure to Obtain a Permit

Any person cited with a “red tag” for failure to obtain a building permit must apply for a permit within 10 working days. A fine of 10% of the building permit costs or \$25, whichever is greater will be assessed. The building owner will be notified by mail at the time the “red tag” notice is posted on the property.

~~APPENDIX I~~

**APPENDIX B- MODEL HEARING NOTICES**

**Purpose.** The purpose of this appendix is to provide models for the hearing notices required by this ordinance.

**Notice for Class II Permit Application Hearing.**

**PUBLIC HEARING NOTICE - CLASS II PERMIT**

John and Jane Doe of P.O. 00, Malad, Idaho 83252 purpose to subdivide the SE1/4, SW1/4 of Section 36, T12, R35 E.M.B. into 8 residential lots. The average density of this development will be 1.0 dwelling units per acre. The property is located on the north side of Pine Road, approximately 1.4 mile east of Willow Creek.

The Oneida County Planning and Zoning Commission will conduct a hearing on this proposal at 8:00 P.M., Monday, March 1, 1997 at the County Courthouse in Malad City, Idaho. A copy of the application is available for public review at the Oneida County Recorder's Office. Public comment is encouraged.

**Notice of Variance Hearing**

**PUBLIC HEARING NOTICE – VARIANCE**

John and Jane Doe of P.O. 00, Malad, Idaho 83252 have applied for a variance of Section XX of the Oneida County Development Code. This proposed variance would permit a 12 foot encroachment in the required stream corridor setback along Blue Creek. This proposed encroachment would permit construction of a deck attached to the house located on Lot 6 of the Blue Creek subdivision. The property is located on the east side of Pine Drive, .03 miles from the intersection of Henderson and Highway 60. The Oneida county Planning and Zoning Commission will conduct a hearing on this proposal at 8:00 P.M., Monday, March 1, 1997 at the County Courthouse in Malad City, Idaho. A copy of the application is available for public review at the Oneida County Recorder's Office. Public comment is encouraged.

**APPENDIX C - COMMERCIAL OPERATIONS/DEVELOPMENT  
MANAGEMENT AGREEMENT**

**Purpose.** This appendix provides a model for the commercial operations/development management agreements required upon all residential lands within the County.

**Commercial Operations/Development Management Agreement.**

The word “adjacent” hereinafter refers to all property within 1,000 feet of the attached described property.

“Grantors” are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Oneida County, dated, for approval of a Class I/Class II Permit for residential development on the attached described property, and in consideration of such approval, Grantors grant to the owners of the all property adjacent to or within 1,000 feet of the attached described property, a perpetual nonexclusive agreements as follows:

1. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this agreement that the attached described property is situated in a commercial operations/development area and may be subjected to conditions resulting from commercial operations/development on adjacent lands. Such operations/activities ordinarily and necessarily produce noise, dust, smoke and other conditions that may conflict with Grantor’s use of Grantor’s property for residential purposes. Grantors hereby waive all common law rights to object to normal and necessary commercial operations/activities legally conducted on adjacent lands which may conflict with Grantor’s use of Grantor’s property for residential purposes and grantors hereby grant an agreement to adjacent owners of such activities.
2. Nothing in this agreement shall grant a right to adjacent property owners to ingress or egress upon or across the described property. Nothing in this agreement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statues or regulations of governmental agencies for activities conducted on adjacent properties.

This agreement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the commercial operations development’s adjacent landowners, their heirs, successors and assigns. These landowners, their heirs, successors and assigns are hereby expressly granted the right of third party enforcement of this agreement.

IN WITNESS WHEREOF, the Grantors have executed this agreement on \_\_\_\_\_ (date).

\_\_\_\_\_  
Grantor

State of Idaho  
County of Oneida

This instrument was acknowledged by me on \_\_\_\_\_ (date) by

\_\_\_\_\_  
Notary Public,

\_\_\_\_\_  
My Commission Expires

APPENDIX M

**APPENDIX D – DETAILED PERFORMANCE STANDARDS FOR THE CONSTRUCTION OF WIRE FENCES ON THE BOUNDARIES OF SUBDIVISIONS**

**Purpose:** This appendix provides detailed fence construction for the boundaries of subdivisions when the requirement for solid fencing is waived by the Commission.

**Fence Type:** The fence shall be a barbed, mesh, combination wire fence. Wire and post requirements shall be as illustrated in Figure 1.

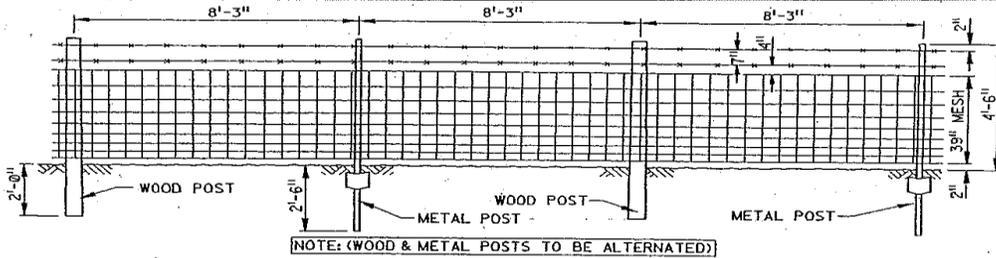
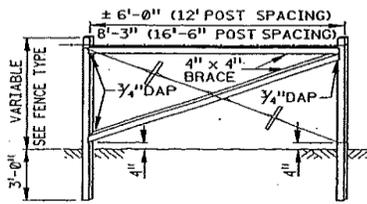


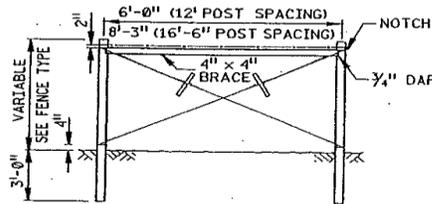
Figure 1.

**BRACING:** All bracing shall be of the wood panel type shown in figures 2, 3 & 4. Single panels are required for runs less than 330 ft. Double panels are required for runs greater than 330 ft.



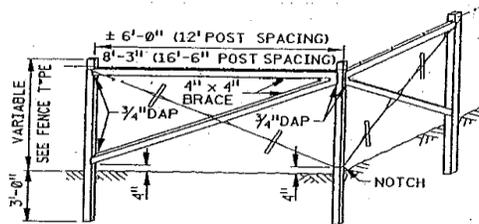
TERMINAL BRACE

Figure 2.



LINE BRACE

Figure 3.



CORNER BRACE

Figure 4.

APPENDIX N  
**APPENDIX E - SUBDIVISION AGREEMENT**

This Subdivision Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Oneida County, a body politic of the State of Idaho hereinafter referred to as “Subdivider”.

**WITNESSETH**

WHEREAS Subdivider has applies to County for final plat approval on a subdivision entitled \_\_\_\_\_, which is more particularly described and identified on Exhibit A, attached hereto, incorporated herein and made a part hereof, and

WHEREAS, as a condition to approval of the subdivision, Subdivider must enter into an agreement with County; and

WHEREAS County is willing to approve the subdivision so that the same may be recorded, but desires to ensure that the improvements required by the ordinances of Oneida County are fully met;

NOW THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

1. County does hereby approve the subdivision identified on Exhibit A attached hereto, and does authorize the appropriate officers of Oneida County to sign the subdivision plat, showing their approval of the said subdivision plat.
2. Subdivider represents to County that the improvements contemplated in the subdivision, as evidenced in the plans and specifications submitted with this contract and made a part of this contract by reference, are in full compliance with the County subdivision ordinances. Subdivider agrees to install at his/her own cost as of the improvements identified in the plans and specifications, which are incorporated herein as a part of this agreement, and to have the said improvements installed within 18 months from the date of this agreement. All work shall be completed in a workmanlike manner and shall conform to the Oneida County Development Code, Chapter 16. In addition, the sanitary sewer and water systems shall be in accordance with the specifications and requirements of the Health Authority. It is expressly understood and agreed that nothing in this agreement shall limit the responsibility of the Subdivider to comply with all laws, ordinances, rules of regulations of Oneida County.
3. All work, as it is completed within the subdivision, shall be inspected by the Oneida County Building Inspector. As the entire subdivision is completed, the County Building Inspector will inspect the entire subdivision and certify to the Board that the subdivision is complete.
4. In accordance with the requirements of Chapter 17 of the Oneida County Development Code relating to platting and recording of subdivisions in the unincorporated area of the county, Subdivider shall furnish to Oneida County, upon execution of this agreement, a bond, cash deposit, irrevocable letter of credit or escrow arrangement in the amount of \_\_\_\_\_dollars. The said sum represents at least 125% of the engineer’s estimate of the cost of the improvement contemplated within the subdivision. The bond, irrevocable letter of credit, cash or other surety shall remain in effect until one year after the County Building Inspector certifies to the Board that the subdivision has been completed. Notwithstanding the foregoing, the bond, cash, irrevocable letter of credit or other surety may be reduced by the cost of any improvements as they are completed upon review and approval by the County Building

Inspector. In no event, however, shall the bond, cash, irrevocable letter of credit or other surety be reduced below 25% of the amount of the bond.

5. Subdivider hereby warrants and guarantees that the improvements contemplated herein and any part thereof will remain in good condition for a period of one year after the date the County Building Inspector certifies to the Board that the subdivision is complete, and Subdivider agrees to make all repairs to and maintain the improvements and every part thereof in good condition during the one year period with no costs to the County.
6. In the event the subdivision is not completed within two years from the date of this agreement, County shall be entitled to as much of the bond, cash, irrevocable letter of credit or other surety needed to complete the improvements set forth in the plans and specifications included as a part of this agreement, which have not been completed. It is understood and agreed that this paragraph does not obligate County to complete the subdivision, but does authorize County to use the money held as security for performance of this contract to complete the improvements.
7. At any time during this agreement or the one year guarantee period, should any of the improvements contemplated by the plans and specifications, which are a part of this agreement, be in need of repair or be in any way defective, County shall notify Subdivider of the needed repairs or the defects, and Subdivider shall correct the defects or make the repairs within sixty (60) days from the date of the notice. In the event Subdivider fails to make the needed repairs or correct the defects, County shall be able to look to the bond, cash, irrevocable letter of credit or other security for the money needed to make the repairs or correct the defects.
8. Time is of the essence in this agreement.
9. This agreement is binding upon the heirs, administrators and assigns of the parties.
10. In the event Subdivider defaults in any of the terms or conditions of this agreement, Subdivider agrees to pay all costs of enforcing this agreement, including, but not limited to, a reasonable attorney fees, whether or not the matter is finally resolved by litigation.

WHEREFORE, the parties hereto have signed this agreement the day and year first written.  
BOARD OF COMMISSIONERS, ONEIDA COUNTY, IDAHO

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Oneida County Clerk

\_\_\_\_\_  
Subdivider

\_\_\_\_\_  
Subdivider

~~APPENDIX O~~

**APPENDIX F**

1. Escrow: The Subdivider shall deposit with any insurance company, bank, or savings and loan institution in an escrow account an amount of money equal to at least one hundred twenty five percent (125%) of the costs of the improvements required by this title not previously accepted by the County. The costs of the improvements not accepted and not installed or constructed shall be determined by the zoning administrator. The escrow agreement shall be subject to approval by the county attorney and shall be signed by the Subdivider, the county, and the escrow holder, and shall contain substantially the following language:

**ESCROW AGREEMENT**

This Escrow Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and among Oneida County, body politic of the State of Idaho, hereinafter referred to as “County”, and hereinafter referred to as “Subdivider”, and \_\_\_\_\_, hereinafter referred to as “Escrow Agent”.

**WITNESSETH:**

WHEREAS, Subdivider and County have entered into an agreement whereby Subdivider has agreed to install certain improvements within a subdivision before being accepted by County; and

WHEREAS, Subdivider is willing to deposit with Escrow Agent funds sufficient to complete the improvements contemplated by the Subdivision Agreement; and

WHEREAS, Escrow Agent is willing to hold the funds deposited with it and to release them upon the following terms and conditions

NOW THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the parties hereto agree as follows:

- A. Subdivider does hereby deposit with Escrow Agent for the benefit of County the sum of \_\_\_\_\_, which represents at least 125% of the estimated costs of the improvements to be installed in the proposed subdivision of Subdivider, his agents or employees.
- B. Subdivider and County hereby agree that the foregoing sums of money shall be used exclusively for the purpose of paying for the costs of materials, and construction and installation of the improvements required by the Oneida County Development Code and that said improvements shall be installed in accordance with the approved plans and specifications and in accordance with the provisions of the Oneida County Development Code. In addition, County and Subdivider further agree that the money held by Escrow Agent shall be paid out to the contractor installing and constructing the required improvements only upon an Order executed by the Subdivider and by an authorized officer of County.

- C. Except as provided in paragraph 7 of this Agreement, Escrow Agent does hereby agree to pay sums from the escrowed funds only after having received an order signed by the Subdivider and by an authorized office of the County specifying the amount to be paid out of the Escrow Account.
- D. County and Subdivider agree that Subdivider shall not withdraw from the Escrow Account any amount in excess of 100% of the estimated costs of the improvements, but Subdivider agrees to pay from other sources any costs for such improvements which exceed 100% of the estimated costs.
- E. The sum of 25% of the estimated costs of improvements shall remain with the Escrow Agent for a period of one year after improvements are made and completed. If, during that one year period, the territory containing the subdivision is annexed by a municipality, Oneida County reserves the right to assign its interest in this agreement to the municipality.
- F. If after 18 months from the date of final subdivision approval, all or any part of the required improvements have not been installed, constructed, and maintained according to the standards required by the Oneida County Development Code, County shall notify in writing the Subdivider and the Escrow Agent of the improvements that have not been installed, constructed, or maintained, and shall make demand on Subdivider that the improvements be installed, constructed, or maintained. If the improvements are not installed, constructed, and maintained within thirty (30) days after notice by County, County may install, construct, or maintain the improvements and receive payment from the Escrow Agent up to the limit of the escrowed funds for the costs of installing, constructing, or maintaining the required improvements.
- G. The Escrow Agent shall, on receiving written proof from the County of notice of Subdivider as required by paragraph 6 above and reasonable proof of the installation, construction, or maintenance of the required improvements, pay to County from the Escrow Account the cost of constructing, installing, or maintaining the improvements; and upon payment Escrow Agent shall be relieved from any responsibility or liability for the payment of his escrowed funds.
- H. If, after one year after the improvements have been installed by Subdivider, the required improvements have been maintained and remain substantially free from latent defects, County shall certify such fact to the Escrow Agent, and the Escrow Agent shall release to Subdivider any funds still held in the Escrow Account, and the Escrow Agent shall be discharged from its obligation to County and to Subdivider.

WHEREFORE the parties hereto have signed this Escrow Agreement the day and year first above written.

ONEIDA COUNTY BY:

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

ATTEST:

\_\_\_\_\_  
Oneida County Clerk

Subdivider BY:

\_\_\_\_\_  
ESCROW AGENT BY:

Approved as to Form:

\_\_\_\_\_  
Oneida County Attorney

2. Irrevocable Letter of Credit: The Subdivider shall file with Oneida County an irrevocable letter of credit from a duly chartered state or national bank, which letter shall contain provisions substantially similar to that required in the escrow agreement. The form of the irrevocable letter of credit shall be substantially as follows:

Name of Bank \_\_\_\_\_

Address \_\_\_\_\_

**IRREVOCABLE LETTER OF CREDIT**

To: Oneida County Board of Commissioners  
Credit No.:

Date:  
Letter of:

Gentlemen:

We hereby establish our irrevocable letter of credit in your favor for the account of \_\_\_\_\_ (insert name of Subdivider, Subdivider's address) up to the aggregate amount of \$\_\_\_\_\_ (insert amount) available by your draft(s) drawn at sight \_\_\_\_\_ (insert name of bank, address of bank), accompanied by \_\_\_\_\_ (here insert terms which give Oneida County control over payment, substantially the same terms as in the escrow agreement).

It is fully understood that said funds are solely for the purpose of guaranteeing improvements, whether off-site or on-site for the \_\_\_\_\_ Subdivision according to plans and specifications as approved by Oneida County. No offsets, charges, or reductions in these funds will be made without written approval from Oneida County.

\_\_\_\_\_  
Authorized Bank Officer

3. Bond:

- A. The Subdivider shall furnish and file with the planning and zoning department a bond with corporate surety in an amount equal to one hundred twenty-five (125%) of the cost of the improvements not previously installed, as estimated by the engineer, to assure installation and construction of such improvements within eighteen (18) months, immediately following the approval of the subdivision plat by the Board, which bond shall be approved by the Board and attorney and which bond shall guarantee that the improvements shall be maintained in a state of good repair, free from material or workmanship defects, for a period of twelve (12) months from the date of completion. After twelve (12) months following the completion of the improvements for which a surety or cash bond has been filed, the Subdivider shall call for inspection by the administrator. If inspection shows that the standards and specifications have been met in completion of such improvements, the bonds therefore shall be released within fourteen (14) days from the time of inspection.
- B. Such surety or bond shall remain in force for a period of twelve (12) months after the construction completion inspection for the purpose of guaranteeing all improvements, at which time they shall be inspected again by the administrator. If the improvements are found to be in satisfactory condition, the administrator will release the bond. If the improvements are not found to be in satisfactory condition, the administrator shall in writing make demand on Subdivider to make repairs. If repairs are not made within thirty (30) days of date of letter, bond shall be forfeited to County.

**APPENDIX G**

**ONEIDA COUNTY PLANNING AND ZONING**

Oneida County Courthouse  
10 Court Street  
Malad, ID 83252  
(208) 766-4116 Ext. 101  
Fax: (208) 766-2448

NOTE: THIS DOCUMENT WILL BE RECORDED IN THE ONEIDA COUNTY RECORDER'S OFFICE AND NOTATION OF IT SHOULD APPEAR ON SUBSEQUENT TITLE SEARCHES OF THE PROPERTY.

**AGRICULTURAL BUILDING CERTIFICATION STATEMENT**

I, \_\_\_\_\_ certify that the structure which I am applying for a zoning permit is an agricultural building. AGRICULTURAL BUILDING is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock, other horticultural products, or any other ACO (animal containment operation). This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged; nor shall it be a place used by the public.

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTARY**

State of Idaho )  
County of Oneida)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year of 20\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary \_\_\_\_\_

Residing at \_\_\_\_\_

Commission expires: \_\_\_\_\_