

**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 01: 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 within Oneida County.

**SECTION 02: 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 03: 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 04: 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 05: 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:

- A. **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.
- B. **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.
- C. **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).
- D. **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.
- E. **NOTICE TO UTILITY PROVIDER.** No wind energy system 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.

- F. 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:
1. Existing microwave communication links, or
  2. An existing fixed broadcast antenna used for radio, television, or wireless phone or other personal communication systems.
- G. SETBACKS. Each wind turbine shall comply with the following minimum setback requirements:
1. 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.
  2. 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.
  3. Public Roads: one and five-tenths (1.5) times its total height from the nearest public road right-of-way.
  4. Railroads: One and five-tenths (1.5) times its total height from all railroad right-of-ways.
- H. 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.
- I. 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.
- J. COLOR. Wind turbines shall be non-reflective, non-obtrusive color.
- K. 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.
- L. UNDERGROUND WIRING. All wiring between wind turbines and associated substations shall be underground.

- M. 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.
- N. SIGNAGE. Appropriate warning signage shall be placed on all wind turbine towers, electrical equipment and facility entrances.
- O. 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 06: ADDITIONAL PROVISIONS

### A. SMALL WIND TURBINES

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

### B. MEDIUM WIND TURBINES

- 1. 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.
- 2. 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.

### C. COMMERCIAL WIND TURBINES

- 1. 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.
- 2. 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.
- iii. 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 fall height.
  - iv. PUBLIC ROADS: one and five-tenths (1.5) time it total height from the nearest public road right-of-way.
  - 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 from other 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 07: 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 08: 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 09: REPEAL OF CONFLICTING PROVISIONS**

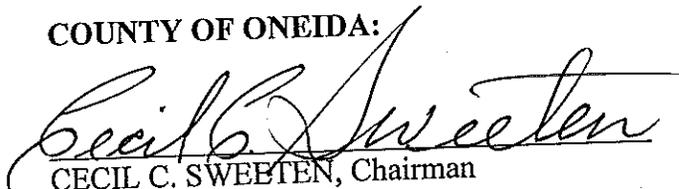
All provisions of current county ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict. Oneida County Ordinance No. 2010-12-001 is hereby repealed in its entirety.

**SECTION 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 day of May, 2011.

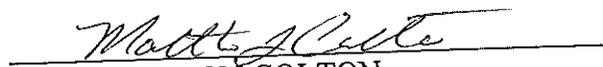
**COUNTY OF ONEIDA:**

  
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 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 1: Provides for and defines declaration of policy and purpose.

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

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

Section 8: Provides for severability of the provisions of the ordinance.

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

Section 10: Provides for publication and effective date of the ordinance.

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

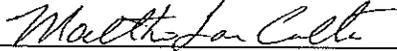
**ATTEST:**

  
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.

  
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MATTHEW LON COLTON,  
Oneida County Clerk