

Oneida County Ordinance No. 3

AN ORDINANCE ZONING ONEIDA COUNTY PROVIDING  
FOR VARIANCES, SPECIAL USE PERMITS AND PENALALTIES

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

WHEREAS, The Board of County Commissioners of Oneida County, Idaho, is required pursuant to the Local Planning Act of 1975 contained in Title 67, Chapter 65, of the Idaho Code, and specifically Sections 67-6511, to establish within the jurisdiction one or more zones or zoning districts by ordinance, and

WHEREAS, The zoning districts so established must be in accordance with the Oneida County Comprehensive Plan which has been adopted pursuant to Title 67, Section 6508 of the Idaho Code, and

WHEREAS, The County of Oneida, State of Idaho, is primarily rural in nature and not densely populated, and the jurisdiction of the Board of County Commissioners of Oneida County as pertains to zoning is outside the area of impact of the municipalities within the county and

WHEREAS, The Oneida County Comprehensive Plan has established as its goal and objective that the property owners within the county be given maximum opportunity to develop the resourced and property within the county according to their desires, restricted only by the necessary consideration for the health, safety, general welfare of the present and future inhabitants of Oneida County, and

WHEREAS, The Oneida County Comprehensive Plan has declared it to be a policy of the county that planning, zoning, subdivision and building laws and policies shall be no more restrictive than specifically determined to be necessary and desirable by the people of the county acting through their elected Board of County Commissioners,

and

WHEREAS, This proposal has been duly approved by the Board of County Commissioners of Oneida County after public hearing for which due and legal notice was given,

NOW, THEREFORE, Be it ordained by the Board of County Commissioners of Oneida County, State of Idaho, that the unincorporated territory of Oneida County shall be divided into a zone pursuant to the provisions as hereinafter set forth.

#### ARTICLE ONE

##### TITLE

This ordinance shall be known and entitled as the Zoning Ordinance of Oneida County, State of Idaho, and may be so cited and pleaded.

#### ARTICLE TWO

##### ESTABLISHMENT OF MULTI-PURPOSE ZONE

The unincorporated territory of Oneida County which is under the jurisdiction of the elected Board of County Commissioners of Oneida County, shall be in its entirety zoned as a multi-purpose zone.

#### ARTICLE THREE

##### GENERAL OBJECTIVES AND CHARACTERISTICS THE ZONE AND PERMITTED USED

The objective in establishing a multi-purpose zone is to comply with the provisions of Idaho Code 67-6511 and to permit the property owners with the County of Oneida, the maximum opportunity to develop the resources and property of the county in accordance with existing or future uses which they may desire, subject only to reasonable regulation and limitations necessary for the preservation of the public health, safety and general welfare as determined by the elected Board of County Commissioners of Oneida County.

All buildings which are not more than 15 feet in height shall be set back 30 feet from the edge of the right-of-way. All buildings over 15 feet in height shall be set back an additional 3 feet for each additional foot in height.

All new construction must be located so as not to interfere with the right-of-way for street and sidewalks.

All existing uses shall be permitted and all future uses and development shall also be permitted subject to the provisions of the nuisance law and of the regulations and restrictions imposed upon building and development by the elected Board of County Commissioners of Oneida County.

All requests for building permits shall be presented to the Oneida County Planning and Zoning Commission, at least, one week prior to its monthly meeting. The Oneida County Planning and Zoning Commission shall recommend to the Board of County Commissioners that the application either be approved, disapproved, or approved with conditions. Any recommendation for disapproval or approval with conditions shall include written statements outlining the Commission's reasons for the recommendations issued.

Final determination of any building permit request shall rest with the Oneida County Board of Commissioners which shall either approve, disapprove, or approve with conditions said request.

Decisions and determinations reached by the Oneida County Planning and Zoning Commission and the Oneida County Board of Commissioners shall be based upon the adopted Comprehensive Plan and the Oneida County Land Development Policy which is an appendix to the Comprehensive Plan.

Prior to the commencement of any construction costing in excess of \$2,500.00, a construction application shall be presented to the

Planning and Zoning Commission; a reasonable fee as determined by resolution of the Board of County Commissioners shall be charged for filing such application. All such applications shall be considered under such provisions by regulation promulgated by the Planning and Zoning Commission and shall be either approved or denied after within fifteen (15) days after filing. Any application fully in compliance with this Ordinance may be approved by the Planning and Zoning Commission or its duly authorized clerk. Any application not summarily approved by said clerk shall be considered by the Commission which shall make its recommendation to the Board of County Commissioners. The Board of County Commissioners must act on such recommendation within ten (10) days from the date of filing by the Planning and Zoning Commission. The determination and action by the Board of County Commissioners shall contain such findings and shall be subject to such appeals as specified by statute.

Upon approval or conditional approval, a building permit and construction tag shall be issued by the County Clerk. Construction tags must be placed on the construction site in such a manner as to be clearly visible to passers-by. Any construction exempt from the requirements of obtaining a building permit because of cost shall be subject to all other provisions of this ordinance.

On the same premises with every building, structure, or part thereof, erected and occupied or increased in capacity after the effective date of this ordinance, for manufacturing, storage, warehouse, goods display, department store, grocery, hotel, hospital, mortuary, laundry, dry cleaning, or other use similarly involving the receipt or distribution by vehicle of materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with public use or streets or alleys.

ARTICLE FOUR  
NONCONFORMING USES

Any proposed use which differs from nearby existing uses will not be permitted unless the applicant obtains written permission for the use from nearby landowners. All property owners within three hundred (300) feet of the applicant's building site must grant permission to the applicant before the proposed use will be allowed.

If one or more property owners object to the proposed use, which differs from present uses in the area, a public hearing will be held by the Oneida County Board of Commissioners. The Board of Commissioners will then decide to either grant or deny the applicant's permit.

ARTICLE FIVE  
INCORPORATED AREAS WITHIN THE COUNTY

It shall be the responsibility of all cities, municipalities and other incorporated areas within the jurisdiction of the elected Board of County Commissioners of Oneida County to develop and ordain whatever regulations they may desire with regard to zoning within the boundaries of said cities, municipalities, or incorporated areas and the impact areas thereof as defined by Title 67-6526 of the Idaho Code.

ARTICLE SIX  
AMENDMENTS TO CITY ZONING ORDINANCE

The residents, or property owners of any area within the county which is affected by the zoning herein who desire to amend the provisions of the zoning ordinance as it applies to their area shall, by a written petition signed by not less than a majority of the residents of said area, submit a request for an amendment to the elected Board of County Commissioners of Oneida County. Notice shall be provided by mail to property owners and residents within

the land being considered, or within three hundred (300) feet of the external boundaries of the land being considered; and any additional area that may be impacted by the proposed change as determined by the elected Board of County Commissioners. When notice is required to two hundred (200) or more property owners or residents, alternative forms or procedures which would provide adequate notice may be provided in lieu of mailed notices as determined by the elected Board of County Commissioners of Oneida County.

If the request is not in accordance with the Oneida County Comprehensive Plan, the elected Board of County Commissioners of Oneida County, shall adopt or reject any amendment to the Oneida County Comprehensive Plan proposed by the residents of the residents of the affected area which have submitted the petition to amend under the notice and hearing procedures provided in Section 67-6509 of the Idaho Code. After the plan has been amended, the zoning ordinance may then be amended as provided for under 67-6511 of the Idaho Code.

#### ARTICLE SEVEN

##### SPECIAL USE PERMITS

The elected Board of County Commissioners of Oneida County may entertain applications for and grant or reject special use permits for uses otherwise prohibited by the terms of this ordinance. In the accepting, processing and granting or denying of the special or conditional use permits, the elected Board of County Commissioners of Oneida County shall follow the procedures outlined in Section 67-6512 of the Idaho Code.

#### ARTICLE EIGHT

##### EFFECT OF ORDINANCE ON RESTRICTIVE COVENANTS

This ordinance shall not in any way be interpreted to restrict or regulate the rights of individuals developers or private property or subdivisions to establish their own regulations, restrictive

covenants or etc., regarding the permissible uses or building restrictions on the property being developed.

It shall be the policy of the Board to encourage and honor restrictive covenants as established by the land owners or developers. A copy of applicable restrictive covenants shall be filed with the elected Board of County Commissioners upon adoption.

#### ARTICLE NINE

##### CONFLICT

Whenever regulations in this ordinance require higher standards than are required in other ordinances or laws the provisions of this ordinance shall govern.

#### ARTICLE TEN

##### SEVERABILITY

Where any work, phrase, clause, sentence, paragraph, or section or other part of these regulations are held invalid by a Court of competent jurisdiction, such judgment shall affect only that part so held invalid.

#### ARTICLE ELEVEN

Any building or structure which may be hereafter set up, erected, constructed, enlarged, converted or moved contrary to the provisions of this ordinance and any use of the land or building or premises established, conducted, maintained, or operated contrary to the provisions of this ordinance or hereby declared to be unlawful and opposed to orderly development of the county and shall therefore be considered a public nuisance, except this section shall not apply to the alteration, conversion, maintenance or remodeling of any building in which such alteration, conversion or remodeling does not change the use or function of any such existing building nor affect the impact of such existing building on the area.



## ARTICLE TWELVE

### RESPONSIBILITY FOR VIOLATIONS

It shall be the duty of all architects, contractors, land surveyors, engineers, subdividers, subcontractors, builders, and other persons having to do with the establishment of any use of land or the erection, altering, changing, remodeling of any building or structure to ascertain that a proper permit has been issued before such work has begun. Any such architect, builder, land surveyor, engineer, contractor or other person doing or performing any such work without having a permit being issued is in conflict with the requirements of this ordinance in the same manner and to the same extent that the owner of the premises or the persons for whom the use is established or for whom such buildings are erected or altered and shall be subject to the same penalties therein prescribed for violation.

## ARTICLE THIRTEEN

### PENALTY

Any person, firm or corporation, whether as principal, agent, employee or otherwise, who shall erect and construct, or reconstruct any building which involves structural alteration which involved an increase in the floor area in any zone within the area of Oneida County, State of Idaho, without first obtaining a building permit therefore from the county building inspector shall be penalized as follows:

1. Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor, the landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assist in, or maintains such violation may each be found guilty of a separate offense. Nothing herein contained shall prevent the

any violation of this ordinance or of the Idaho Code.

2. Willful and intentional violations of any other provisions of this ordinance which are continuous in nature shall constitute a misdemeanor, and each day such violation continues shall be considered a separate offense.

ARTICLE FOURTEEN

EFFECTIVE DATE

This ordinance shall become effective upon its passage and due publication as provided by law.

Passed by the elected Board of County Commissioners of Oneida County, State of Idaho, this 27<sup>th</sup> day of June, 1980.

BOARD OF COUNTY COMMISSIONERS OF  
ONEIDA COUNTY

151  
Jay Burrie, Chairman

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George Neal

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Conrad C. Alder

ATTEST BY:

James H. Fredericson  
Clerk