

## ORDINANCE NO. 2022-08-01

AN ORDINANCE PROVIDING LAND AND DEVELOPMENT REGULATIONS FOR ONEIDA COUNTY, IDAHO; SETTING THE AUTHORITY, PURPOSE, SCOPE, AND DEFINITION OF TERMS; ESTABLISHING ZONING DISTRICTS; ESTABLISHING DISTRICT USE REGULATIONS; ESTABLISHING BUILDING HEIGHT AND LOT AREA REGULATIONS; SETTING STANDARDS AND REVIEW PROCEDURES FOR VARIOUS LAND USES; PROVIDING FOR VARIANCES; SETTING STANDARDS AND PROCEDURES TO MITIGATE THE RISK TO LIFE AND STRUCTURES FROM SPREADING WILDLAND FIRE INTO DEVELOPED LAND AND STRUCTURE FIRES FROM SPREADING TO WILDLAND FUELS; SETTING STANDARDS AND PROCEDURES TO MINIMIZE PUBLIC AND PRIVATE LOSSES DUE TO FLOOD CONDITIONS; PROVIDING STANDARDS FOR PLANNED UNIT DEVELOPMENTS; PROVIDING REGULATIONS ASSOCIATED WITH MASS GATHERINGS; PROVIDING REGULATIONS APPLYING TO ALL ZONING DISTRICTS; PROVIDING STANDARDS FOR THE CONSTRUCTION OF PRIVATE AND PUBLIC ROADS; PROVIDING REQUIREMENTS FOR OFF-STREET PARKING; SETTING STANDARDS AND PROCEDURES FOR STREET NAMING AND ADDRESSING; SETTING GENERAL SIGN REGULATIONS; SETTING STANDARDS FOR SPECIFIC USES; SETTING STANDARDS; SETTING STANDARDS FOR CONDITION USE PERMITS; SETTING STANDARDS AND PROCEDURES FOR THE SUBDIVISION OF PROPERTY; SETTING PROCEDURES FOR THE MITIGATION OF SUBDIVISION IMPACTS ON THE SCHOOL DISTRICT TO PROVIDE SERVICES; SETTING PROCEDURES FOR THE REQUIREMENT FOR THE ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY OR CERTIFICATES OF COMPLETION; PROVIDING FOR ADMINISTRATION, APPEALS, AMENDMENTS, APPLICATION PROCEDURES, DEVELOPMENT AGREEMENTS, LAND USE HEARINGS, SEVERABILITY, ENFORCEMENT, AND PENALTIES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

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## Chapter 1 General Regulations

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### 15 1-1 Title:

The text of this document together with appropriate maps and appendices shall be known as the “Oneida County Development Ordinance”, hereinafter referenced to as the “Ordinance”. The passage of this Ordinance repeals the following Oneida County Ordinances and Resolutions:

- 20 • Oneida County Ordinance 3 – Zoning Ordinance Providing for Variances, Special Use Permits and Penalties;
- Oneida County Ordinance 87-1 Ordinance Governing Outdoor Assemblies;
- Oneida County Ordinance 97-06-01 – Regarding Building Codes;
- 25 • Oneida County Ordinance 98-09-14 – Relating to Design Standards for Roads Proposed for Public Dedication and Maintenance;
- Oneida County Ordinance 99-11-01 – Declaring a Moratorium on Subdivisions;
- Oneida County Ordinance 2000-05-01 – Regulating Manufactured Homes and Manufactured Home Parks;
- Oneida County Ordinance 2001-04-01 – Adopting Building Codes and Fee Schedule;
- 30 • Oneida County Ordinance 2001-05-01 – Regulating Wild, Exotic and Dangerous Animals;
- Oneida County Ordinance 2005-05-01 – Adopting Building Codes;
- Oneida County Ordinance 2010-12-01 – Regulating Wind Turbines;
- Oneida County Ordinance 2011-05-01 – Regulating Wind Turbines;
- Oneida County Ordinance 2012-05-01 – Regulating Animal Feeding Operations;
- 35 • Oneida County Development Code adopted August 17, 2000 and all of the Amendments Passed thereto, to include, but not limited to:
  - Oneida County Ordinance 2008-10-01;
  - Oneida County Ordinance 2021-06-01;
  - Oneida County Ordinance 2021-10-01 (Chapter 17 repeal); and
  - 40 ○ Oneida County Ordinance 2022-02-01 (Minor Subdivisions).

### 1-2 Purpose:

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the county.



It is designed to:

- A. It is the intent of this Ordinance to specifically implement the goals, objectives, and guidelines adopted in the Oneida County Comprehensive Plan (Comprehensive Plan). If any policy included in this Ordinance is inadvertently irreconcilable with policies adopted in the Comprehensive Plan, Comprehensive Plan policies shall take precedence.
- B. Protect both property rights and property values and minimize the conflicts among the uses of land and buildings.
- C. Ensure adequate on-site and off-site public facilities or services.
- D. Establish reasonable standards for development that promotes the orderly and beneficial development of all parts of the county.
- E. Safeguard from the pollution of air, soil, streams, rivers and ponds and safeguard the ground water and encourage the wise use and management of natural resources throughout the county in order to preserve the integrity, stability and beauty of the county and the value of the land.
- F. Preserve the natural beauty and topography of the county and ensure appropriate development with regard to these natural features while maintaining the open space and rural atmosphere of the county.
- G. Encourage well-planned development and assure equitable handling of all proposals by providing uniform procedures and standards.

### 1-3 Applicability:

- A. This Ordinance is to be in full force and effect from and after its passage, approval, and publication according to law.
- B. If any one or more of the Sections, Subsections or any other part of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance and the same shall remain in full force and effect.
- C. Regulations of this Ordinance shall apply to all real property, buildings, structures or fixtures attached thereto in Oneida County outside of any incorporated city except as may be altered under Idaho Code Sections 67-6525 (annexation) and 67-6526 (area of impact). The United States of America, the State of Idaho, Oneida County and all their respective agencies, boards, departments, institutions, and local special purpose districts, shall comply with this Ordinance unless otherwise excepted by law.
- D. Whenever a provision of this Ordinance, or any provision of any City, State, Federal, or County regulation, resolution, law, rule, or contract contains restrictions covering the same subject matter, the more restrictive requirement or higher standard shall govern when authorized by law.
- E. Previous Violations: The prosecution of violations that occurred under previous land use regulations and that remain a violation under this Ordinance shall continue until resolved.
- F. Project with Pending Application: All applications shall be processed and reviewed according to the ordinances and comprehensive plans in effect as of the date of application submission.
- G. Approved Projects Not Yet Completed: Any approved application may still be completed as provided by the approval.

**1-4 Responsibility:**

Unless otherwise stated, all requirements established by this Ordinance are the responsibility of the property owner of record or their lawfully designated agent or applicant.

**1-5 Interpretation:**

- 5       1. Language:
  - i. Terminology: When used in this ordinance, all words used in the present tense shall include the future; words used in the singular number shall include the plural number and the plural the singular, unless the natural construction of the sentence indicates otherwise. The word "shall" is mandatory, and the word "may" is permissive.
- 10       2. Number Of Days: Whenever a number of days is specified in this ordinance, or in any permit, condition of approval, or notice issued or given as provided in this title, the number of days shall be construed as calendar days, except that such time limits shall extend to the following working day when the last of the specified number of days falls on a weekend or Oneida County holiday.
- 15       3. Minimum Requirements: When interpreting and applying the regulations of this title, all regulations shall be considered to be minimum requirements, unless stated otherwise. Proposed uses shall comply with all applicable regulations and standards unless specifically exempt elsewhere in this title.
- 20       4. Defined Terms: Terms defined in Section 1 Article A of this chapter shall have their defined meanings when used elsewhere in this title. For the purpose of readability and clarity, such terms are not shown in initial caps.
5. Section Headings: Section headings or captions are for reference purposes only and shall not be used in the interpretation of this title.
6. References: All references to state or federal laws and/or regulations shall refer to such laws and/or regulations as they may be amended over time.
- 25       7. Measurements:
  - i. Structure height shall be measured as the vertical distance from the average contact ground level at the front wall of a building to the highest point of the coping of a flat roof, the deck line of a mansard roof, or the average height of the highest gable of a pitch or hip roof.
  - 30       ii. Linear distance shall be measured in a horizontal line; it shall not be measured along an inclined surface or line. For uses that have a separation standard, the distance shall be measured from the nearest customer entrance of the proposed use to the nearest property line of the specified use. The measurement is to be conducted in a radial fashion by the specified number of feet (e.g., 300 feet, 1,000 feet).
  - 35       iii. Illumination levels shall be measured with a calibrated photoelectric photometer or similar device capable of accurate measurement of light.
  - iv. Noise levels shall be measured by an authorized agent of Oneida County at the property line with a noise meter or similar device capable of accurate measurement of sound.
- 40       8. Conflicting Regulations:
  - i. In the case of a conflict between the text and the maps of this document, the text shall prevail.
  - ii. If conflicts occur between different regulations of this ordinance, the most restrictive regulation shall apply.



- iii. It is not intended that this ordinance interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; however, where this ordinance imposes a greater restriction upon the use of structures or premises or upon the height of structures, or requires larger space than is imposed or required by ordinances, rules or regulations, or by easements, covenants, or agreements, the regulations of this ordinance shall govern.

#### **1-6 Disincorporation:**

Where property becomes a part of the unincorporated area of Oneida County by the disincorporation of any city, or portion thereof, such properties shall have an Agricultural District zoning designation.

#### **1-7 General Provisions of Ordinance:**

- A. Agricultural Land - The requirements of this Ordinance are intended to be compatible with Chapter 45 of Title 22 of the Idaho Code (Right to Farm Legislation) and this Ordinance shall not be construed so as to deprive the owner of agricultural land of the full and complete use of said land for the production of any agricultural products.
- B. Building Permits - Any person, firm or corporation desiring to construct, erect, move or remodel a structure, which will be two hundred (200) square feet or greater, shall first obtain a permit from the county and shall pay a fee as required by the county.
- C. Non-Conformance - The non-conforming use of buildings, structures and land use that was in place prior to January 1, 2000, may be continued to the same extent and character as that which existed at that time to the extent that such continuation does not violate other laws and is in conformance with all requirements of Chapter 2, Article B, of this ordinance.
- D. Land Previously Divided - Any lot or parcel of land which was of record on August 1, 2022, which was in conformance with prior regulations may be used as a dwelling site provided the building placement and health requirements are met and that safe access can be accomplished.
- E. Sewage Disposal - All domestic sewage disposal facilities must be approved and a permit issued by Southeastern District Health Department and installed and operating before a building shall be occupied. No building shall be occupied as a residence or commercial, civic, industrial establishment unless the Southeastern District Health Department provides approval.
- F. Lots Below Minimum Lot Area Requirements - After the effective date of this Ordinance, no parcel of land which has less than the minimum width and area requirements may be created from a larger parcel of land for the purpose, whether immediate or future, of building or development, excepting for bona fide agricultural use or other purposes not subject to this Ordinance.

#### **1-8 References:**

References in this ordinance to other ordinances of Oneida County and statutes of the State of Idaho are provided solely for the coordination of this ordinances with such other ordinances and statutes.

#### **1-9 Preservation of Private Property Rights:**

- A. This ordinance shall be interpreted to equally protect citizens from the undue encroachment on their private property by their neighbors' use of their private property and equally protect each citizen's right to the use of their property without creating undue burden upon their neighbors.
- B. In the administration of this ordinance, every person shall be secure in their premises, and no employee of the county shall enter upon, investigate, or search any of the premises of any citizen without the consent of such citizen or order issued by a court of proper jurisdiction.
- C. Every citizen of Oneida County shall have the right to appear in person or be represented by his or her agent before the Board of County Commissioners in the proper order of business to appeal a decision pursuant to the procedures contained in Section 7-7 of this ordinance.



- D. In the enforcement of this ordinance, it shall apply equally to each citizen and each property in similar circumstances and shall not be enforced to discriminate between one individual or group as compared to all others.

**1-10 Saving Clause:**

- 5      Should any section, clause, or regulation of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid; each section, clause, or regulation hereof being declared severable.

## Article A: Definition of Terms:

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

- 5 **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.

**AASHTO:** American Association of State Highways and Transportation Officials. – Refer to HSRDP for further information.

- 10 **Accessory Building or Structures:** A building or structure, fixed or portable, accessory to and located on the same lot, or parcel, as the principal use or building which serves a purpose customarily incidental to the principal use or building (e.g., detached garage, storage shed, gazebo, etc.). This definition does not include any building containing a dwelling unit as hereinafter defined.

- 15 **Accessory Dwelling Unit:** An attached or detached independent dwelling unit on the same lot with, and of a nature customarily incidental and subordinate to, the principal dwelling unit that has a separate kitchen, sleeping, and bathroom facilities.

- 20 **Accessory Storage Building:** A building originally constructed for use as an accessory building for the storage of materials and equipment accessory to a primary use located on the property. Cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory storage buildings.

- 25 **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. In agricultural and residential zones, accessory uses/structures include, but are not limited to, accessory dwelling units, accessory storage buildings, detached carports and garages, pool houses and cabanas, amateur radio and satellite dish antennas, barns, corrals, stables, and similar uses and structures, including accessory storage buildings. In nonresidential zones, accessory uses/structures include but are not limited to, detached carports and garages, caretaker's quarters, guardhouses, microwave and satellite dish antennas, and similar uses and structures.

- 30 **Addition (to an existing building):** An extension or increase in the floor area or height of a building or structure.

**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.

- 35 **Administrator:** An official of the county or their designee, who is authorized by the Board to administer the unified development ordinance.

**Administrator Fees:** The fee charged (as set by resolution) to any applicant for any permit for all reasonable administrative and other costs heretofore or hereafter incurred directly or indirectly by the County in processing the application and monitoring the construction, maintenance, and completion of all or part of the permit.

- 40 **Adult Business:** Establishments based primarily on materials or performances that depict, describe, or relate to specified sexual activities. Adult businesses must be a minimum distance of one-half (1/2) mile from any church, school, daycare, and/or any other business or use which is primarily intended for individuals under the age of eighteen (18) years old. The distance shall be measured in a direct line from the front door of the adult business to the front door of said business or use.



**Affected Person:** One having an interest in real property that may be affected by a decision.

**Agency:** Any political subdivision of the State of Idaho, including but not limited to: cities, counties, school districts, highway districts, fire districts, or any agency of the State government or a political subdivision of another state.

5 **Agent:** A person authorized to act on behalf of another person or entity.

**Agricultural Building:** Any building designed and constructed to be used for agricultural purposes which is not intended for human habitation (including, but not limited to, pump houses, barns, tool sheds, storage buildings, etc.).

10 **Agriculture Production:** Means activities or conditions conducted on land actively devoted to agriculture as defined in Section 63-604, Idaho Code, or on forest land as defined in Section 63-1701, Idaho Code.

**Agriculture Protection Area (APA):** Means specific parcels of land in a designated geographic area voluntarily created under the authority of Idaho Code title 67 chapter 97 and chapter 8 of this ordinance for the purpose of protecting and preserving agricultural land.

15 **Agriculture Protection Area Commission:** Means a five-person advisory board selected by the Board of County Commissioners. Two members are selected from the Planning & Zoning Commission, and three others, all meeting the requirements identified in Section 67-9705, Idaho Code. This advisory board shall have the duties, authorities, and responsibilities identified in 67-9705.

20 **Agriculture Protection Area Applicant:** Means anyone who owns five (5) contiguous acres or more of land that has been in active agricultural or forest production for the previous three (3) consecutive years, consistent with the provisions of Sections 63-604 and 63-1701, Idaho Code, and who voluntarily applies for that land to be included in an agricultural protection area.

25 **Agriculture Protection Area Hardship:** Means a situation or circumstance over which a landowner in an agricultural protection area has no control and can then petition for removal for reasons that include but are not limited to an adverse result in litigation against the farm or landowner, death of a close family member that would lead to unanticipated financial hardships, significant tax liabilities, bankruptcy due to another person's fraud, or any other illegal activity.

**Agriculture Protection Area Proposal:** Means written documents submitted to a governing body or Agricultural Protection Area Commission from a landowner regarding their property.

30 **Agricultural Uses:** Farming, dairying, pasturage, cultivation, tillage, horticulture, floriculture, silviculture, viticulture, vermiculture, animal, poultry, and fish husbandry, as the principal land use and the necessary accessory uses for packing, treating, or storing the produce. Agricultural uses shall not include commercial riding stables, racetracks, slaughterhouses, plants, factories, works for the reduction of animal matter or commercial poultry, kennels, or feed lots.

35 **Aircraft Landing Field:** A privately owned area of land that is used or intended for the landing and takeoff of aircraft, including the necessary accessory structures or facilities for storing and maintenance of aircraft.

**Airport:** A publicly owned area of land that is used or intended for the landing and takeoff of aircraft, including the necessary accessory structures or facilities for storing and maintenance of aircraft.

40 **All Weather Road:** Unpaved road that is constructed of a material that does not create mud during rainfall.

**Alley:** A minor way which is used primarily for vehicular service access to the back or side properties usually abutting a street.

**Amusement or Recreation Facility:** An establishment engaged in providing amusement, recreation, or entertainment. Indoor amusement or recreation facility shall include, but not be limited to, pool hall, billiard parlor, theater, health club, spa, fitness facility, nightclub, or skating rink. Outdoor amusement or recreation facility shall include, but not be limited to, amusement park, miniature golf, golf driving range (that is not accessory to a golf course), drive-in theater, tennis court, football, soccer, rugby, or hockey field, skate park, or swimming pool.

**Animal Clinic, Animal Hospital or Veterinary Office:** Any structure, or portion thereof, that is designed or used for the medical or surgical treatment of animals in which veterinary services, including boarding incidental to treatment, are limited to short term care.

**Animal Feeding Operation (AFO) Small:** A small animal feeding operation means a lot or facility (other than an aquatic animal production facility) to which the following descriptive conditions apply (synonymous with Concentrated or Confined Animal Feeding Operations (CAFO) as defined in Idaho Code Section 67-6529):

A. Consists of three hundred (300) to nine hundred ninety-nine (999) animal units (other than aquatic animals) that have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period excluding any portion thereof upon which crops, vegetation, forage growth, or postharvest residues are sustained during the normal growing season, or

B. Two (2) or more animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. Components of a single lot or facility area shall be considered contiguous when separated by county roads or if they are not adjacent but have any of the above referenced facilities located on the property that are used as part of a consolidated operation.

C. Included as part of an animal feeding operation are all barns, stalls, corrals, feed stalls, feed storage areas, waste lagoons, storm runoff containment, waste storage areas and truck/motor vehicle parking areas used in conjunction with the operation.

**Animal Feeding Operation (AFO) Large:** An animal feeding operation means a lot or facility (other than an aquatic animal production facility) to which the following descriptive conditions apply (synonymous with Concentrated or Confined Animal Feeding Operations (CAFO) as defined in Idaho Code Section 67-6529):

A. Consists of one thousand (1,000) animal units (other than aquatic animals) or greater that have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period excluding any portion thereof upon which crops, vegetation, forage growth, or postharvest residues are sustained during the normal growing season, or

B. Two (2) or more animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. Components of a single lot or facility area shall be considered contiguous when separated by county roads or if they are not adjacent but have any of the above referenced facilities located on the property that are used as part of a consolidated operation.

C. Included as part of an animal feeding operation are all barns, stalls, corrals, feed stalls, feed storage areas, waste lagoons, storm runoff containment, waste storage areas and truck/motor vehicle parking areas used in conjunction with the operation.

**Animal Unit:** A unit of measurement for livestock confinement facilities and animal feeding operations calculated as follows:



| Type of Livestock                | Animal Units |
|----------------------------------|--------------|
| Cattle (Cow-calf/slaughter/feed) | 1.00         |
| Cattle (Dairy Mature)            | 1.40         |
| Cattle (Young)                   |              |
| 1 – 300 lbs.                     | 0.20         |
| 300 – 500 lbs.                   | 0.40         |
| 500 – 700 lbs.                   | 0.60         |
| 700 – 900 lbs.                   | 0.80         |
| 900 – 1,000 lbs.                 | 0.90         |
| Goats                            | 0.20         |
| Horses (Mature)                  | 1.40         |
| Horses (young, under 2-yr)       | 0.60         |
| Llamas                           | 0.60         |
| Mink (Breeding)                  | 0.05         |
| Pheasants                        | 0.02         |
| Poultry (Chickens)               | 0.01         |
| Poultry (Other)                  | 0.02         |
| Sheep                            | 0.20         |
| Swine (over 55 lbs. & Sows)      | 0.40         |
| Swine under 55 lbs.              | 0.10         |
| Swine (Boars)                    | 0.50         |

Where an AU is not specifically defined in this code for an animal, an appropriate AU shall be determined by the Planning and Zoning Administrator with advice from the Idaho Department of Agriculture.

5     **Annex:** To incorporate a land area into an existing district or municipality, with a resulting change in the boundaries of the annexing jurisdiction.

**Annexation:** The act or process of adding land to a governmental unit, usually an incorporated place, by an ordinance, a court order, or other legal action.

**Appeal:** A request for a review of the interpretation of any requirement of this ordinance; or a request for a formal change to an official decision.

10    **Appellant:** A person or entity seeking a decision of the Board, or a decision of the Commission regarding an appeal.

15    **Applicant:** Any person initiating an application for subdividing, or for the development or modification of land, or to build or modify any improvement, or a person who applies for or to whom a permit is issued pursuant to this ordinance. The applicant need not be the owner of the property; however, he/she shall be an agent of the owner or have sufficient proprietary rights in the property to represent the owner.

**Application:** The form approved by the Board of County Commissioners and information required to be filed by the applicant, or agent, for any permit or variance or appeal under county ordinances.

**Approach:** An access point onto a public or private road

20    **Area of City Impact:** An area mutually agreed upon, including boundaries and Ordinances between the city and county as provided for in Idaho Code Title 67, Chapter 65.

**Area of City Impact Agreements:** An agreement, as required by Idaho Code, Title 67, Chapter 65, Oneida County has negotiated impact boundaries and terms with Malad City. This agreement provides the city authority to provide input outside corporate limits and provides the city and county a process for the disposition of lands deemed part of the city trade area or which may be subject to annexation at a future date.

**Area of Shallow Flooding:** A designated AO, AH, AR/AO, or AR/AH zone on a community's flood insurance rate map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one foot (1') to three feet (3') where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Concern:** A parcel of land identified in the Comprehensive Plan that may require additional analysis before development impacts.

**Area of Special Flood Hazard:** See Special Flood Hazard Area (SFHA).

**Arterial Highway:** Highway controlled and maintained by the Idaho Transportation Department (ITD).

**Asphalt Batch Plant:** A plant used for the manufacture of asphalt and other forms of coated roadstone, sometimes collectively known as blacktop or asphalt concrete.

**Attendee:** Any person who obtains admission to an assembly by payment of money, by the rendering of services in lieu of the payment of money for admission or by being present.

**Attorney General's Checklist:** A listing of questions the county will ask to determine whether land use policies, restrictions, conditions, and fees do not constitute a taking of private property rights in any degree. An assessment will be considered if such actions are determined to be unconstitutional under the Idaho State Constitution.

**Auction Establishment:** Premises on which merchandise is stored on a temporary basis to be sold through an on-site auction.

**Auction Facility:** A permanent location where a commercial company specializes in selling items at auction.

**Automobile, Major Repair:** Any or all of the following activities: a) engine rebuilding; b) major reconditioning of worn or damaged motor vehicles; c) collision service, including body, frame, or fender straightening or repair; and d) overall painting of vehicles within an enclosed structure.

**Automobile Sales or Service:** The sale, trade, or lease of new or used passenger automobiles (including, but not limited to cars, sport utility vehicles, light duty trucks, and/or vans) in operating condition and any automobile repair work or minor service. Repair work or minor service shall include, but not be limited to, replacement of parts (e.g., tires, shocks, brakes, mufflers, windshields, radiators, and upholstery), oil change, minor engine repair, tune-up, and accessory sales of replacement parts. Any operation specified under automobile, major repair is excluded.

**Automobile Wrecking Yard:** Any area, lot, land, or parcel where more than two (2) motor vehicles without current registration or more than two (2) inoperable or dismantled motor vehicles that are not in operating condition (or parts thereof) are: a) standing more than thirty (30) days, b) dismantled, or c) stored in view from any public or private road. The following uses are excluded from this definition: agricultural equipment on a "farm" as herein defined, automotive hobby, and vehicles stored or dismantled within a completely enclosed structure.

**Automotive Fuel Islands:** A retail fuel sales facility typically including a small kiosk building covered by a canopy.



**Automotive Gas Station/Service Shop:** Buildings and premises where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail and where, in addition, the following services may be rendered, and sales made:

- A. Sales and service of spark plugs, batteries, and distributors' parts;
- 5 B. Tire servicing and repair, but not recapping or regrooving;
- C. Replacement of mufflers and tailpipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors and the like;
- D. Radiator cleaning and flushing;
- 10 E. Washing, polishing and sale of washing and polishing materials;
- F. Greasing and lubrication;
- G. Providing and repairing fuel pumps, oil pumps, lines;
- H. Minor servicing and repair of carburetors;
- I. Adjusting and repairing brakes;
- 15 J. Minor motor adjustment not involving removal of the head or crankcase or racing the motor;
- K. Sales of cold drinks, packaged food, tobacco and similar convenience goods for service station customers, as accessory and incidental to principal operations;
- L. Provisions of road maps and other informational materials to customers and provision of restroom facilities; and
- 20 M. Warranty maintenance and safety inspections.

Uses permissible at an automotive gas station/service shop do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found at an automotive gas station/service shop. An automotive gas station/service shop is not a repair garage nor a body shop.

**Automotive, Hobby:** An accessory use involving the restoration, maintenance, and/or preservation of two (2) or more vehicles at any one time.

**Bakery Plant (Commercial):** An establishment that is primarily engaged in the manufacture, for sale at wholesale or retail, of fresh or frozen bread, bread-type rolls, or dry bakery products, including biscuits, crackers, or cookies, in which the products are made using yeast leavening.

**Banks/Financial Institutions:** Financial institutions that provide retail banking services to individuals and businesses. This classification includes those institutions engaged in the onsite circulation of cash money and businesses offering check cashing facilities.

**Bar/Lounge/Tavern:** A place of business primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

**Base Flood:** A flood event having a 1% chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** A determination by the federal insurance administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the freeboard, establishes the flood protection elevation.

**Basement:** An area of the building having its floor sub-grade (below ground level) on all sides, except as described and permitted in FEMA Technical Bulletin 11-01.

**Bed and Breakfast:** An owner-occupied dwelling providing overnight accommodations and breakfast food service for no more than ten (10) occupants, including the owner and owner's family.

5 **Best Management Practices (BMP):** Physical, structural, and or managerial best practices that when used singly or in combination may be determined to be the most effective and practical means of preventing or reducing contamination to ground water and/or surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water.

10 **Beverage Bottling Plant:** An establishment that produces consumable liquids (alcoholic or nonalcoholic) in bottles and/or cans.

**Billboard Manufacturer:** Premises where large outdoor advertising structure (a billing board), and/or business advertising signs are constructed.

**Block:** A group of contiguous lots within fixed boundaries established by a subdivision plat.

**Board:** The Oneida County Board of County Commissioners (BOCC).

15 **Boarding House:** An establishment with individual rooms where meals and lodging are provided for, compensation. A boarding house shall include, but not be limited to, a rooming house, shelter, convent, monastery, dormitory, fraternity house, sorority house, or any group of individuals whose association is temporary or seasonal in nature.

**Bond:** A written promise or obligation to insure performance and/or warranty.

20 **Brewery:** An establishment that brews thirty thousand (30,000) barrels of beer or more annually and as defined by Idaho Code Section 23-1003.

25 **Buffer Strip:** A combination of physical space and vertical elements, including, but not limited to, plants, berms, fences, and/or walls that separate and screen incompatible land uses from one another. A buffer strip may also be a landscaped area that provides or slows storm water runoff and provides filtration.

**Building:** Any structure which is designated or intended for the shelter, enclosure or protection of persons, animals, or property of any kind.

**Building Envelope:** An area within the property boundaries of a lot or tract within which an allowed building or structure may be placed; which may be shown on a plat as a shaded or delineated area.

30 **Building Official:** The officer or other designated authority appointed by the Board who is charged with the administration and enforcement of the Oneida County building code, or the building official's duly authorized representative.

**Building Permit:** A formal authorization, with associated fees and standards and guidelines, which allows an applicant to construct an improvement on the designated property.

35 **Building Supply Outlet:** A building or structure in which building, or construction and home improvement materials are offered or kept for sale at retail and may include the fabrication of certain materials related to home improvements but does not include any use or activity otherwise defined or classified herein.

40 **Bulk Plant:** An establishment where commodities, including both liquids and solids, are received by pipelines, tank car, tank vehicle, or other container, and are stored or blended in bulk for the purpose of distribution by pipeline, tank car, tank vehicle, or container.

**Bureau of Land Management (BLM):** The agency within the United States Department of the Interior which administers America's public lands.



**Business Day:** For the purpose of time computation, business day means any day except Saturday, Sunday, or a calendar day which is a legal holiday.

**Butcher Shop:** A retail establishment primarily engaged in preparing and selling fresh, cured, and/or processed meat products directly to consumers. This use may include limited on-site meat cutting, packaging, and incidental cooking or smoking, but does not include the slaughtering of animals. Butcher shops must comply with all applicable local, state, and federal health and safety regulations.

**Cabinet Shop:** A commercial establishment for the purpose of sales, construction, refinishing, or repair of cabinets.

**Calendar Day:** For the purpose of time computation, calendar day means any day, including Saturday and Sundays and legal holidays, from midnight to the following midnight.

**Campground:** An area or tract of land that accommodates one or more temporary residential uses, including, but not limited to, cabins, tents, campers, travel trailers, motor homes, and/or recreational vehicles. A fee is charged to camp within a campground and stays are usually limited to no more than 14 days.

**Car Wash:** An establishment or area that provides facilities for washing and cleaning vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and that may employ some hand labor. The facility may include vacuums and drying areas as accessory uses.

**(CC&Rs):** Covenants, Conditions, and Restrictions.

**Cement Manufacturing:** A complex process that begins with mining and then grinding raw materials that include limestone and clay, to a fine powder, called raw meal, which is then heated to a sintering temperature as high as 1450 °C in a cement kiln.

**Cemetery:** Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes. Cemetery purposes include columbaria, crematoriums, mausoleums, and mortuaries operated in conjunction with the cemetery.

**Certificate of Completion:** Written documentation, from the appropriate official, that the project or work for which a permit was issued has been completed in conformance with requirements of this ordinance.

**Certificate of Occupancy:** Written documentation that the project or work for which the building permit was issued has been completed in conformance with the building codes as adopted by the State of Idaho or the County of Oneida.

**Charter School:** Alternative schools authorized by Idaho State Law that allows the creation of the institution of learning enabling voluntary enrollment and a curriculum controlled by the parents of the students.

**Chemical Manufacturing:** Any facility engaged in the production of chemicals by chemical, thermal, physical, or biological processes for use as a product, co-product, by-product, or intermediate including but not limited to industrial organic chemicals, organic pesticide products, pharmaceutical preparations, paint and allied products, fertilizers, and agricultural chemicals.

**Chemical Storage Facility:** A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Child Care Center:** See Daycare Facility

**Children's Treatment Facility:** An establishment, or portion thereof, that: a) provides permanent provisions for living, sleeping, eating, cooking, and sanitation for more than eight (8) juveniles under eighteen (18) years old, and b) provides treatment for substance abuse, mental illness, emotional

disturbance, developmental disability, mental retardation, or juveniles who have been identified by the judicial system as requiring treatment, therapy, rehabilitation, or supervision. For purposes of this title, this definition shall include group foster homes with more than thirteen (13) juveniles.

5 **Church:** An establishment that by design and construction is primarily intended for the conducting of organized religious services, meetings, and associated activities.

**Circuses and Carnivals:** Provision of games, eating and drinking facilities, live entertainment, animal exhibitions, or similar activities, which may be conducted outdoors, or in a tent or other temporary structure, for a maximum of seven (7) days. This classification excludes events conducted in a permanent entertainment facility.

10 **City Limits:** The boundaries of an incorporated city, town or village as described by the Articles of Incorporation and subsequent annexations.

**Civic Uses:** Types include governmental and quasi-governmental agencies providing utility, educational, cultural, major medical, protective, governmental, and other uses which are strongly vested with public or social importance.

15 **Clay Product Manufacturing:** Manufacture of brick and structural clay products involves mining, grinding, screening and blending of the raw materials followed by forming, cutting or shaping, drying, firing, cooling, storage, and shipping of the final product.

20 **Clear Vision Triangle:** An area at the intersection of two (2) streets that is clear of sight obstructions to motorists, as defined in Idaho Code Section 49-221, or as further defined in the HSRDP, in case of a conflict between Idaho Code and the HSRDP whichever is more stringent shall apply.

**Clinic:** A building or portion of a building containing offices and facilities for providing medical, dental or psychiatric services for out-patients only.

**Club or Lodge:** An auxiliary, fraternal, or veterans' organization as defined by Idaho Code Section 23-902.

25 **Cluster Development:** A site design technique that groups structures, or lots, into relatively concentrated and contiguous areas while providing the remaining land for open space, wooded area, recreational, agricultural land or preservation of environmentally critical areas.

30 **Cold storage:** A structure or room for the storage of edible or non-edible merchandise or commodities, which usually require special low temperatures and condition for storing or preservation, before their export or distribution for sale.

**Commercial/Civic Building:** Any building or structure which is not considered a single-family residence, which is used for the public or by the public, where there is an assumption that safe construction standards have been followed.

35 **Commercial/Industrial Landscaping Standards:** A listing of standards and guidelines developers of commercial and industrial land will be required to implement to improve the aesthetic appearance by changing its contours, adding ornamental features, or by planting trees and shrubs.

40 **Commercial Land Use:** A use, other than agriculture, which involves the buying and selling of products or services for profit or compensation; in the county traditionally located along state highways and in community centers, with primary uses serving travelers through the area, the consumer needs of the residents, and agricultural needs.

**Commercial Recreation Uses:** Lands developed by the private sector for recreational use with the express purpose of making a profit or compensation.

**Commission:** The Oneida County Planning and Zoning Commission appointed by the Board.



**Common Driveway:** A vehicular access to two (2) lots or parcels, which originate from a public or private road, where no further subdivisions are allowed.

5 **Common Lot:** A lot within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the public. A common lot is maintained by a homeowner's association or other maintenance entity and may include landscape buffers and common open space.

10 **Common Open Space:** Land held for the use and benefit of the owners of dwelling units or lots in a subdivision, and which is devoid of roads, parking, or buildings not intended for recreational or community purpose. Common open space does not include open space of individual lots within a subdivision but may include open space as a buffer for commercial and industrial land uses, and a buffer on the perimeter of the subdivision.

15 **Communication Facility:** Broadcasting, recording, and communication services accomplished through electronic or telephonic mechanisms, but excluding public service facilities and personal wireless service facilities. This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

**Community:** A sub-area of the county consisting of residential, civic, and commercial uses sharing a common identity or location.

**Community Plan:** A detailed proposal for defining land use and facilities within a community. Separate community plans with goals may be recognized by the Oneida County Comprehensive Plan.

20 **Composting Facility, Commercial:** Facility for the large-scale production of compost intended for sale and use on premises other than where such compost is produced.

**Comprehensive Plan:** A compilation of goals, objectives, maps, and other data guiding the physical, social and economic development, both public and private, of the county and its environs, as identified in Idaho Code 67-6508.

25 **Concrete Batch Plant:** An industrial establishment used for the production of concrete or concrete products used in building or construction and may include facilities for the administration and management of the business, the stockpiling of bulk materials used in the production process, or a finished product manufactured on the premises and the storage and maintenance of required equipment.

30 **Conditional Use:** Any use as defined by county ordinance which, because of its potential incompatibility with adjacent or traditional uses, is subject to review by the Commission and public comment at a public hearing to best ensure compatible land uses.

**Conditional Use Permit (CUP):** A permit which if granted authorizes a particular use to be made on a particular premise, subject to compliance with all the terms and conditions placed on the permit.

35 **Condominium:** A development in which individual dwelling units are platted and owned; or are intended to be owned in severalty, while the land and at least the structural components and exterior surfaces of the buildings are owned in common by the owners of the dwelling units.

40 **Conservation Easement:** A non-possessor interest of holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property, assuring its availability for agricultural, forest, recreational, or open space use, protecting natural resources, maintaining, or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

**Contiguous Parcels:** Unplatted parcels held in one ownership that abut each other at a common boundary.

**Contractor:** A person who agrees to furnish materials and/or perform services at a specified price, especially for construction. The term contractor shall include, but not be limited to, building, landscaping, electrical, plumbing, heating, or air conditioning contractors.

5 **Contractor's Yard:** Any area of land used by a contractor for storage, maintenance, or processing incidental to the business of building, hauling, excavation, demolition, or similar activity and including any area of land used for the incidental repair of machinery used for any of the above listed activities.

**Construction Trailer or Field Office:** Temporary buildings used in conjunction with construction work only during the period construction work is in progress,

10 **Conveyance:** The transfer of an interest in land by the owner. Conveyances may include land, easements, and rights-of-way transferred to either public or private entities.

15 **Correctional institution:** Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program operated by, or under contract to, the United States, a state, a territory, a political subdivision of a state or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense, or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders adjudicated delinquent, illegal immigrants detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.

**County:** Shall mean Oneida County.

20 **County Emergency Services:** The County office that coordinates with the Idaho State Department of Homeland Security in preparing for potential county disasters and emergencies.

25 **County Engineer or Surveyor:** A person, or company, appointed by the Board, who is responsible for the administration of engineering or surveying matters for the County and shall be a licensed engineer and/or surveyor in the State of Idaho, as required by Idaho Code. All duties of the County Engineer or Surveyor shall be as set forth within county ordinances, by resolution of the Board, or as otherwise set by Idaho Code.

**County Hazardous Areas:** Designated sites where human health and safety could be at risk due to wildfires, steep slope mass failure, erosion, flooding, landslides, avalanches, earthquakes, hazardous materials or groundwater contamination. Therefore, additional mitigation maybe required.

30 **County Planning:** The decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and controls enacted to achieve the goals and objectives as they relate to cities and communities and furthering the welfare of people and their communities by creating convenient, equitable, healthful, efficient, and attractive environments for present and future generations.

**County Prosecutor:** The Prosecuting Attorney of Oneida County or his/her designee.

35 **County Development Ordinance:** An ordinance adopted by the Board which addresses all land use and development within the unincorporated areas of the county.

**Crawl Space:** The area of a house or structure between the lowest finish floor and the bottom of the foundation excavation enclosed by continuous foundation walls.

40 **Creek:** A small stream, often a shallow or intermittent tributary to a river, including but not limited to: Devils Creek, Cherry Creek, Deep Creek, Henderson Creek, Campbell Creek, Dairy Creek, Rattlesnake, Creek, Sheep Creek, and Spring Creek.

**Crematory:** A facility where a dead person's body is cremated.

**Critical Facility:** Facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric



substation, police station, fire station, nursing home, school, vehicle and equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

**Critical Fire Weather:** A set of weather conditions (usually a combination of low relative humidity and wind) whose effects on fire behavior make control difficult and threaten fire fighter safety.

**Cul-de-sac Road:** Local road having one end permanently terminated in a vehicle turnaround.

**Culture:** The set of shared attitudes, values, goals, and practices that characterizes an institution, organization, or group.

**Customs:** Traditional and widely accepted ways of behavior or doing something that is specific to a particular society, place, or time.

**Dairy Products Processing:** An establishment that converts raw dairy into a finished packaged form and distributes the product to be sold for consumption offsite.

**Dangerous or Protected Animal:** Any species for which the state or federal government has established specific regulations regarding such animal including, but not limited to, big cats, bears, raptors, large reptiles, and other wildlife. The term shall not include any species commonly recognized as domestic pets.

**Datum:** The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the national geodetic vertical datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American vertical datum of 1988 (NAVD88).

**Daycare Facility:** Any facility where children regularly receive care and supervision, usually unaccompanied by the children's parents, guardians or custodians, and regardless of whether the facility does or does not provide any instruction. This use excludes the case of a) the operator's children or legal wards or children related by blood or marriage, b) occasional personal guests, and c) children aged twelve (12) years and over. Any home, place, or facility providing overnight custodial services for lodging or boarding for the occupants therein shall not be considered a childcare facility.

There are three (3) types of daycare facilities:

**A. Family daycare home:** A childcare facility for six (6) or fewer children. Babysitting services are an accessory use to residential uses.

**B. Group daycare facility:** A childcare facility for seven (7) to twelve (12) children.

**C. Daycare center:** A childcare facility for thirteen (13) or more children.

**Dedication:** The setting apart of land or interest in real property for use by the public. Real property becomes dedicated only when accepted by the Board through written approval as a public dedication, either by the passage of a county ordinance, or by entry of a resolution of approval in the official minutes of the Board, or by the recording of a plat showing such dedication.

**Defensible Space:** An area either natural or man-made, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

**Department of Environmental Quality, Idaho (IDEQ):** Is a state department created by the Idaho Environmental Protection and Health Act (Idaho Code, Title 39) to ensure clean air, water, and land in the state and protect Idaho citizens from the adverse health impacts of pollution.

**Density:** A unit of measurement which specifies the number of dwelling units per acre of land.

**Design Professional:** A licensed individual with specialized knowledge and experience who is qualified to develop plans for various components of a subdivision.

**Detached Out-Building:** Outbuildings as defined herein are structures that are not intended for human habitation and are accessory to the primary single-family residence structure or are agricultural in nature.

**Detention:** The storage of storm water runoff used to control peak discharge, which creates and provides settling of pollutants.

**Detention Center:** Publicly or privately owned and operated facilities providing housing, care, and supervision for persons confined by law.

**Development:** Any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, mining dredging, filling, grading, paving, excavation, or drilling operations, or storage of equipment or materials.

**Development Activity:** Any activity defined as development which will necessitate a floodplain development permit; such as: the construction of buildings, structures, or accessory structures; additions or substantial improvements to existing structures; bulkheads, retaining walls, piers, and pools; the placement of mobile homes; or the deposition or extraction of materials; the construction or elevation of dikes, berms and levees.

**Development in a Flood Zone:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

**Development Standards:** An agreed level of development with an associated standard of quality which assures an established outcome and an aesthetically and culturally acceptable community.

**Development, Residential:** A land area designated for family dwelling construction.

**Digital Flood Insurance Rate Map (DFIRM):** The digital official map of a community, issued by the federal emergency management agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated

**Distillery:** A place where alcoholic liquors such as whiskey, vodka, or gin are made by distillation.

**Drive-In Establishment:** An establishment, other than an automobile service station, that is designed to accommodate the motor vehicles or patrons in such a manner as to permit the occupants of such vehicles, while remaining in the vehicle, to make purchases or receive services.

**Drive-Up Window:** Any portion of a structure or structure from which business may be transacted, directly with customers located in a motor vehicle.

**Drive-Up Window Service:** An establishment providing a "drive-up window" as herein defined. The term drive-up window service shall include, but not be limited to, providing food or beverage service, bank service, and/or film processing. The term drive-up window service shall not include "gasoline, diesel, or alternative fuel sales facility" or "car wash" as herein defined.

**Driveway:** A vehicular ingress and egress route. A driveway may serve no more than two (2) residential building lots, unless specifically authorized by Oneida County Development Ordinances.

**Driveway Standards:** County standards as described in the HSRDP.

**Drug and Alcohol Treatment Facility:** An establishment, or portion thereof, that: a) provides permanent provisions for living, sleeping, eating, cooking, and sanitation, and b) provides a treatment program for adult patients (18 years and older) with a drug and/or alcohol use problem. This definition



shall include a detoxification facility, inpatient facility, residential facility, clinic, and outpatient facility as they relate to drug and alcohol treatment.

**Drugstore or Pharmacy:** A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines but where nonmedical products may be sold as well.

**Dude Ranch:** A type of ranch oriented towards visitors or tourism. It is considered a form of agritourism. A Dude Ranch is also referred to as a guest ranch.

**Dwelling:** A building, or portion thereof containing one or more dwelling units. The term "dwelling" does not include any recreational vehicle, hotel or motel as defined herein.

**Dwelling, Single-Family:** A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space. This classification includes manufactured homes and any home in which eight (8) or fewer supervised unrelated mentally and/or physically handicapped or elderly persons reside.

**Dwelling, Single-Family Attached:** A dwelling consisting of two (2) or more dwelling units attached to one another by common walls with each dwelling unit being on a separate lot, commonly referred to as townhouses and/or townhomes.

**Dwelling, Two-Family:** A building containing two (2) dwelling units for two (2) families living independently of each other including duplexes, and semi-detached housing.

**Dwelling, Multiple-Family:** A building containing at least three (3) dwelling units for three (3) or more families living independently of each other.

**Dwelling Unit (DU):** Space within a dwelling comprising living, dining, sleeping room or rooms and storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one family.

**Easement:** A right of use, falling short of ownership, and usually for a certain stated purpose. (As defined by Title 50, Chapter 13, Idaho Code)

**Economic Development:** A development that provides a service, produces a good, retails a commodity, or emerges in any other use or activity for the purpose that enables greater production, increased employment, and a better distribution of goods and services.

**Elevation Certificate:** The official form (FEMA Form 81-31) used to track development, providing elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Community Officials.

**Elevated Building:** For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

**Elevation Certificate:** The elevation certificate is an important administrative tool of the NFIP. It is used to determine the proper flood insurance premium rate; it is used to document elevation information necessary to ensure compliance with community floodplain management regulations; and it may be used to support a request for a letter of map amendment (LOMA) or letter of map revision based on fill (LOMR-F).

**Emergency Care:** Inpatient and outpatient hospital services necessary to prevent the death or serious impairment of the health of the recipient.

**Emergency Manager:** The Oneida County Emergency Manager is tasked with making recommendations regarding all subdivisions and CUP applications to the Oneida County Planning and Zoning Commission and the Oneida County Commissioners. The Emergency Manager may require

that a Fire Protection Plan be completed for subdivisions and CUP applications, but he/she is not the approving authority for fire protection plans.

**Emergency Services:** Provision of emergency medical care transportation, fire protection and police protection, including incidental storage and maintenance and parking of emergency and emergency related vehicles.

**Enclosure:** An area enclosed by solid walls below the BFE/FPE or an area formed when any space below the BFE/FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE/FPE is not considered an enclosure.

**Endangered Species Act:** A Federal rule to protect certain species listed as either endangered (in danger of extinction) or threatened (likely to become endangered).

**Engineer:** Professional Engineer (P.E.) registered in the State of Idaho.

**Environmental Assessment Plan:** A plan prepared by an interdisciplinary team of professionals addressing possible environmental concerns of a specific site. The Environmental Assessment Plan shall address the following questions:

1. What changes will occur to the area of environmental concern as a result of the proposed development?
2. What corrective action or alternative development plans could occur so as not to significantly change the area of environmental concern?
3. What changes in the area of environmental concern are unavoidable?
4. What beneficial or detrimental effect would the development have on the environment including, but not limited to, water, animal life, plant life, social concerns, economic, noise, visual, available farmland and other?

**Environmental Impact Study/Statement (EIS):** A document required by the National Environmental Policy Act for federal government agency actions "significantly affecting the quality of the human environment." A tool for decision making an EIS describes the positive and negative environmental effects of a proposed agency action.

**Equipment Rental and/or Sales Yard:** The use of a site for the sale, rental, storage, or servicing of tools, trucks, tractors, construction equipment, agricultural implements, or similar industrial equipment.

**Evacuation Route, Emergency:** A road or highway in Oneida County that is specified by the County or other jurisdiction as a route for emergency evacuation. These routes will lead residents away from what would be considered the direction of movement of the most likely threat (flood or fire) to an individual residence, subdivision, or populated area.

**Excavate:** Any act to displace or relocate earth, sand, gravel, and rock or other earthen material.

**Existing Construction:** For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the Flood Insurance Rate Map (FIRM). "Existing construction" may also be referred to as "existing structures."

**Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.

**Existing Structures:** See Existing Construction.

**Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be



affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Exploration:** The examination and investigation of land supposed to contain valuable minerals, by drilling, boring, sinking shafts, driving tunnels, and other means, for the purpose of discovering the presence of ore and its extent.

**Fair Housing Act (Title VIII of the Civil Rights Act of 1968):** As amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

**Fairgrounds:** A place where fairs, horse races, etc., are held; in the U.S. usually an area set aside by a city, county, or state for an annual fair and often containing exhibition buildings.

**Family:**

A. An individual or two (2) or more individuals related by blood, marriage, legal adoption, or guardianship.

B. A group of not more than ten (10) persons who need not be related by blood or marriage living together in a dwelling unit.

C. Eight (8) or fewer unrelated mentally and/or physically handicapped or elderly persons residing in a dwelling who are supervised at the dwelling in connection with their handicap or age-related infirmity, provided that no more than two (2) staff members reside in the dwelling at any one time. (Resident staff shall not be counted toward the "8 or fewer" criterion.)

**Family Food Production:** The non-commercial keeping of domestic animals and fowl for the production of food and/or gardening for the use of the family occupying the premises.

**Farm:** A property in agricultural use that is five (5) acres in size or greater.

**Farmers' Market (Outdoors):** The use of a site for the seasonal sale of fresh agricultural products directly to the consumer at an open-air market designed as a community activity. It may provide arts and crafts booths accessory to the produce and plant life booths.

**Federal Emergency Management Agency (FEMA):** An agency of the US government tasked with disaster mitigation, preparedness, response, recovery planning, and overall responsibility of administering the National Flood Insurance Program (NFIP).

**Fees:** A payment of funds to the county for any of the applications or other entitlements; the fee amount is set through a Fee Schedule Resolution by the Oneida County Commissioners.

**Fill:** Material, natural, or other, used to elevate the ground surface.

**Final Plat:** A map or drawing of a subdivision showing the division of land into lots, blocks, and roads along with the associated conveyances to be filed as a public document. A reproducible or permanent drawing of a subdivision and dedications and easements, prepared for filing and recording with the County Recorder in accordance with the provisions of Title 50, Chapter 13, Idaho Code.

**Financial Guarantee:** An irrevocable letter of credit, cash deposit, or certificate of deposit, pledged to secure the performance of an obligation.

**Finished Floor:** The finished floor is the first habitable walking surface referenced in the elevation certificate (FEMA form 81-31 sections C2a and C2b) as the top of the next highest floor or the top of a slab on grade floor.

**Fire Area:** The floor area of a structure, in square feet, used to determine the adequate water supply.

**Fire Chief:** The chief officer or the chief officer's authorized representative of the fire department serving the jurisdiction. The Fire Chief of a Fire Protection District created under Title 31 Chapter 14 of the Idaho Statutes may require a Fire Protection Plan for new subdivision or CUP applications submitted to Planning and Zoning. The Chief of a Fire Protection District is also the approving authority for such a plan.

**Fire Chief – VFD:** The Chief of a Volunteer Fire Department (VFD) or subscription district may request a Fire Protection Plan be accomplished for new subdivisions and CUP applications within his area of service, but he is not the approving authority. In the un-incorporated areas not in a Fire Protection District of Oneida County, the Oneida County Sheriff is the approving authority.

**Fire Protection District:** An independent taxing district organized for the purpose of providing fire protection within the legal boundaries described at the time of its implementation by the voters within its boundaries. Fire Protection Districts are organized in accordance with Title 31 Chapter 14 of the Idaho Code.

**Fire Protection Plan:** A document prepared for a specific subdivision or CUP application. It describes ways to minimize and mitigate the fire problems created by the proposed subdivision or CUP application with the purpose of reducing impact on the community's fire protection delivery system. A Fire Protection Plan will address site-specific issues pertaining to location, topography, slope, flammable vegetation, climatic conditions, fire history, water supply, water sources, water storage capacity, distance/response time from the nearest fire station. The Plan will address road access, building ignition and fire resistance factors, fire protection/suppression systems, fire protection equipment, defensible space, evacuation routes and other considerations as required by the Building Official, Emergency Manager, Fire Chief, Fire Chief-VFD, or Sheriff.

**Fire-Resistance-Rated Construction:** The use of materials and systems in the design and construction of a building or structure to safeguard against the spread of fire within a building or structure and the spread of fire to or from buildings or structures to the (WUI) area.

**Fire Resistant Vegetation:** Fire resistive plants burn at a relatively low intensity, slow rates of spread and with short flame lengths.

**Fire Weather:** Weather conditions favorable to the ignition and rapid spread of fire. In wildfires, this generally includes high temperatures combined with strong winds and low humidity. *See* Definition for "Critical fire weather."

**Flame Spread Rating:** As used herein refers to rating obtained according to tests conducted as specified by a nationally recognized standard.

**Flammable Substance Storage:** An establishment, or portion thereof, wherein combustible substances (as defined by the applicable fire code) are stored.

**Flea Market:** A type of bazaar that rents space to people who want to sell or barter merchandise ranging from low quality items to bargain priced items of the highest quality or used goods.

**Flex Space:** Allows for uses that generally require substantial amounts of storage and working area as well as office and/or showroom space. This use is not intended to permit warehousing or manufacturing that has high levels of truck activity. Loading docks shall be at the rear of the structure, shall be screened from view from street and neighboring uses, and loading ramps shall be a maximum of two feet (2') high to discourage tractor trailer use. Examples of uses include, but are not limited to, custom bookbinding, ceramic studios, candle making shops, custom jewelry manufacture, lighting/plumbing fixture showrooms, small merchandise assembly, and low intensity sales and distribution facilities. Gross floor area of each building used as "flex space" shall be a maximum of thirty thousand (30,000) square feet. Buildings may be comprised of several lease spaces. Hours of operation shall be limited to between six o'clock (6:00) A.M. to ten o'clock (10:00) P.M.



**Floodplain Building Standards:** County standards for building within a floodplain within the county; see Chapter 3, Article B.

**Flood or Flooding:**

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides (mudflows) which are proximately caused by flooding as defined in division A2 of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in division A1 of this definition.

**Flood Fringe:** The portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

**Flood Insurance Rate Map (FIRM):** The official map of a community, issued by the federal insurance administrator which delineates both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

**Flood Insurance Study (FIS):** The examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (mudflow) and/or flood-related hazards.

**Flood Protection Elevation (FPE):** The base flood elevation plus the freeboard.

A. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet (2') of freeboard; and

B. In special flood hazard areas where no BFE has been established, this elevation shall be at least three feet (3') above the highest adjacent grade.

**Flood Zone:** A geographical area shown on a flood hazard boundary map (FHBM) or flood insurance rate map (FIRM) that reflects the severity or type of flooding in the area.

**Floodplain or Flood-Prone Area:** The land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

**Floodplain Administrator:** The zoning administrator, or an individual designated by the zoning administrator, to administer and implement this chapter in accordance with its provisions.

**Floodplain Development Permit:** Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

**Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain Management Regulations:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofed:** (1) Floodproofed means making a building watertight, substantially impermeable to floodwaters. (2) Floodproofed is described as a combination of adjustments and/or additions of features to buildings that eliminate or reduce the potential for flood damage. (Definition from FEMA Tech Bulletin 3-93)

**Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1').

**Food Processing Plant:** A commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities.

**Foster Home, Group:** An establishment, or portion thereof, that: a) provides permanent provisions for living, sleeping, eating, cooking, and sanitation, and b) provides foster care for seven (7) to thirteen (13) children under the age of eighteen (18).

**Freeboard:** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams and the hydrologic effects of urbanization in a watershed. The base flood elevation (BFE) plus the freeboard established the flood protection elevation (FPE). FREEBOARD shall be two feet (2').

**Frontage:** The portion of a lot that is contiguous to a public and/or private road that is used to access the lot.

**Fuel Break:** An area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for firefighting.

**Fuel, Heavy:** Vegetation consisting of round wood 3 to 8 inches in diameter.

**Fuel, Light:** Vegetation consisting of herbaceous plants and round wood less than 1/4 inch in diameter.

**Fuel, Medium:** Vegetation consisting of round wood 1/4 to 3 inches in diameter.

**Fuel Modification:** A method of modifying fuel load by reducing the amount of nonfire-resistive vegetation or altering the type of vegetation to reduce the fuel load.

**Fuel Mosaic:** A fuel modification system that provides for the creation of islands and irregular boundaries to reduce the visual and ecological impact of fuel modification.

**Fuel-Loading:** The oven-dry weight of fuels in a given area, usually expressed in pounds per acre (lb/a). Fuel loading may be referenced to fuel size or time lag categories and may include surface fuels or total fuels.

**Gasoline, Diesel, or Alternative Fuel Sales Facility:** An establishment that sells and supplies motor fuel, lubricating oils, alternative fuel, and/or grease to on premises trade.



**Gated Community:** A defined group of lots or parcels whose ingress and egress is over a private road that is gated at a public road and whose purpose is to restrict public access.

**Geologist:** Scientist studies the solid and liquid matter that constitutes the earth as well as the processes and history that has shaped it.

- 5 **Goal:** The broad statement that is an expression of guiding principles and focuses on desired outcomes. They are broad directions that establish ideal future conditions toward which policies are oriented.

**Grain Storage Facility:** A site or physical structure regularly used to store grain for producers, or to store grain acquired from producers for resale.

**Gravel Pit:** See Pit, Mine, or Quarry

- 10 **Greenbelt:** Either; 1) A linear park, alternative transportation route, or open space conservation area approved by the Board that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas, as indicated in a greenbelt plan adopted by the Board, or 2) A fuel break designated for a use other than fire protection.

- 15 **Greenhouse, Commercial:** An establishment where flowers, shrubbery, vegetables, trees, and other horticulture products are grown in the open and/or in an enclosed building for sale to the general public on a retail basis.

**Greenhouse, Wholesale:** An establishment where flowers, shrubbery, vegetables, trees, and other horticulture products are grown in the open and/or in an enclosed building for sale on a wholesale basis, with retail sales on premises to be on an occasional and incidental basis.

- 20 **Group Home:** Residential shelter care facilities for mentally and/or physically handicapped and/or elderly citizens. Group homes for eight or fewer people are considered single family dwellings for purposes of land use ordinances.

- 25 **Hazardous Area:** An area which has not yet been designated by the state or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or other on-site naturally occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the county.

**Hazardous Development Site:** An area where the Board determines that the developed use of certain lands poses, or could pose, an imminent threat to the health, safety, or general welfare of occupants, users, or owners of certain lands,

- 30 **Hazardous Materials:** As defined in the *International Fire Code*.

**Half-Way House:** A type of facility to allow people to begin the process of reintegration with society.

**Health Authority:** The Southeastern Idaho Public Health (Region 6), Idaho Health and Welfare, and the Idaho Division of Environmental Quality; or such agency or unit of government which may succeed in the powers, duties, and responsibilities of said authority.

- 35 **Heavy Equipment:** Shall include, but not be limited to, truck, trailer, farm machinery, and/or motor freight.

**Highest Adjacent Grade (HAG):** The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA elevation certificate for HAG related to building elevation information.

- 40 **Highway, public:** A street so designated as a county, state, or federal highway by the governmental entity responsible, therefore.

**Highway Corridors:** See State Highway Corridors.

**Highway Standards and Roadway Development Procedures (HSRDP) for Oneida County:** Standards and procedures for the construction of public roads, promulgated by the Oneida County Road and Bridge Department and adopted by the County Commissioners by Resolution.

**Historic Structure:** A structure that is:

- 5       A. Listed individually in the national register of historic places (a listing maintained by the U.S. department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- 10       B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the secretary to qualify as a registered historic district;
- 15       C. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the secretary of the interior; or
- 15       D. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
  - 4. By an approved state program as determined by the secretary of the interior, or
  - 5. Directly by the secretary of the interior in states without approved programs.

**Historic Use:** Land use activities recognized as a use of the land in the past; it can also include the current present use.

- 20       **Home-Based Business:** A home-based business would consist of service-oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients coming to the residence and would require a Conditional Use Permit.

- 25       **Home Occupations:** Any gainful commercial operation, profession, or craft, which is customarily incidental to or carried on entirely within a dwelling place and does not affect the rural or residential character of the neighborhood.

**Horticulture:**

- A. General: The raising of vegetables, flowers, ornamental trees and shrubs as a commercial enterprise, including the storage of nursery equipment and materials and the erection of nursery structures.
- 30       B. Limited: The raising of vegetables, flowers, ornamental trees and shrubs as a commercial enterprise, provided that no nursery equipment or materials shall be stored, and no structures erected.

**Hospital:** An institution for health care providing patient treatment by specialized staff and equipment.

**Hotel/Motel:** The word "Hotel or Motel" shall mean a building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

- 35       **Ice Manufacturing Plant:** Any food establishment, together with the necessary appurtenances, in which ice is manufactured or processed, and stored, packaged, distributed, or offered for sale for human consumption, or for use in which it may come into contact with food equipment or utensils, or with food or beverage intended for human consumption.

**Ignition-Resistant Construction, Class 1:** A schedule of additional requirements for construction in the WUI areas based on extreme fire hazard.

- 40       **Ignition-Resistant Construction, Class 2:** A schedule of additional requirements for construction in Wildland-urban interface areas based on high fire hazard.



**Ignition-Resistant Construction, Class 3:** A schedule of additional requirements for construction in the WUI areas based on moderate fire hazard.

**Impact Fees:** A fee levied, as defined by Idaho Code 67-8202, and may be amended.

Development impact fee means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:

- A. A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
- B. Connection or hookup charges;
- C. Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or
- D. Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to Section 67-8209(3), Idaho Code, for credit or reimbursement.

**Impact Report:** A report prepared by the County identifying the impact each development may have on the County infrastructure.

**Incompatible Land Use:** The proximity of one or more land uses to another use when the former is not compatible with the latter; for example, an industrial use located next to a residential use.

**Industrial Use:** Any manufacturing processing, testing, energy production, storing, assembling, and similar uses which generally generate by-products of noise, smoke, odor, glare, gas, vibration, dust, or light. It does not refer to the growing of agricultural crops, or the raising of livestock.

**Industrial:**

- A. **Extractive:** Any mining, quarrying, excavating, processing, storing, separating, cleaning or marketing of any mineral natural resource.
- B. **Heavy:** Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character, require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.
- C. **Light:** Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed structures and generating little industrial traffic and no nuisances.

**Industry:**

- A. **Custom:** Establishments primarily engaged in on site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment.
- B. **Limited:** Includes mechanical equipment not exceeding two (2) horsepower, a single kiln not exceeding eight (8) kilowatts and the incidental direct sale to consumers of only those goods produced on site. Typical uses include custom bookbinding, ceramic studios, candle making shops, and custom jewelry manufacture.

**C. Research and Development:** Establishments primarily engaged in the research, development, and production of high technology electronic, industrial, or scientific products or commodities for sale, but prohibits uses that may be objectionable by reason of production of offensive odor, dust, noise, vibration, or storage of hazardous materials. Examples of uses include, but are not limited to, biotechnology firms, and computer component manufacturers.

**Infill Development:** The construction of a building on a vacant parcel located in a predominately built-up area. The local zoning regulations may determine whether the new building fits harmoniously into the neighborhood.

**Infrastructure:** Facilities and services needed to sustain development and land-use activities including but not limited to utility lines, streets, fire stations, parks, schools, and other public facilities.

**Intermittent Streams:** A water channel contains flowing water for only a portion of the year. When not flowing, the water may remain in isolated pools, or surface water may be absent. Intermittent Streams are usually marked on topographic maps with a line of blue dashes and dots.

**Irrigation Facilities:** Canals, laterals, ditches, conduits, gates, wells pumps, and equipment necessary for the supply, delivery, and drainage of irrigation water.

**ISPMC:** Idaho Standards for Public Works Construction.

**Junk:** Discarded, used, or secondhand materials, including, but not limited to, used machinery, scrap copper, brass, iron, steel, other ferrous and nonferrous metals, tools, appliances, implements, vehicles or portions thereof, furniture, beds and bedding, rags, glass, plastic, cordage, rubber, building materials (excluding lumber), or other waste that has been abandoned from its original use and may be used again in its present or in a new form.

**Junkyard:** An establishment as defined by Idaho Code Section 40-111 where junk is bought, sold, exchanged, stored, kept, processed, or handled.

**kennel, Commercial:** The commercial boarding, caring, or breeding of four (4) or more dogs, cats and other household domestic animals in return for compensation or kept for sale. The sale of two or less litters of pets per year per animal shall not be deemed "commercial".

**Laboratory:** Premises equipped for scientific experiments, research, or teaching, or for the manufacture of drugs or chemicals.

**Ladder Fuels:** Fuels arranged by natural growth or design in a vertical configuration so that a fire would easily carry from one level to the next.

**Land Disturbing Activity:** Any man-made change to the land surface, including removal of vegetation and topsoil, filling, grading, or removal of soil or rock material. Land disturbing activity will not include agricultural uses, farming, landscaping, or cultivating and harvesting of crops or trees.

**Land Use:** The occupation or use of land or water area for any human activity for any purpose.

**Land Use Map:** A map, officially adopted as an exhibit to the comprehensive plan, that geographically and specifically locates existing and future land uses such as residential, commercial, industrial, and civic (public areas and buildings) that have been established in the comprehensive plan.

**Land Use Planning:** A process that creates the basic elements of a Comprehensive Plan designating the present and future location, form, class, and extent (size) within a planning jurisdiction for residential, commercial, industrial, and civic (public areas and buildings) use or reuse. The land use plan includes a map and written description of the different land use areas or districts and serves as the guidance for official land use decisions.

**Land Use Regulation:** Laws enacted by the local government for the regulation of any aspect of land use and community resource protection, including zoning, subdivision, conditional use permit or site



plan regulation, or any other regulation that prescribes the appropriate use of property of the scale, location or intensity of development.

**Laundromat:** A. An establishment that provides washing, drying, and/or ironing machines for hire, and/or

5 B. An establishment that provides washing, drying and/or ironing services to retail customers.

**Letter Of Map Change (LOMC):** An official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. LOMCs are issued in the following categories:

10 **A. Letter Of Map Amendment (LOMA):** An official amendment, by letter, to an effective national flood insurance program (NFIP) map. A LOMA establishes a property's or structure's location in relation to the special flood hazard area (SFHA). LOMAs are usually issued because a property or structure has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

15 **B. Letter Of Map Revision (LOMR):** FEMA's modification to an effective flood insurance rate map (FIRM) or a flood boundary and floodway map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood hazard area (SFHA). The LOMR officially revises the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM), and sometimes the flood insurance study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

20 **C. Letter Of Map Revision Based on Fill (LOMR-F):** FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

25 **D. Conditional Letter Of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective flood insurance rate map (FIRM) or flood insurance study (FIS). Upon submission and approval of certified as-built documentation, a letter of map revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building permits and/or flood development permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

30 **Levee:** A manmade structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System:** A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

35 **Live Entertainment Events:** Temporary concerts and other cultural events lasting less than seven (7) days or ongoing occasional events such as barn dances, square dances, weddings and receptions; temporary events such as corn mazes, hayrides, retail pumpkin patches and petting zoos lasting less than forty-five (45) days per calendar year.

**Livestock:** Hoofed domesticated animals, poultry, rabbits, and fur bearing animals.

**Livestock Confinement Facility:** Establishments where more than two (2) animal units/acre or three (3) animal units/acre for horses and less than 299 animal units, are, or will be stabled, confined, gathered, or concentrated and fed or maintained (watered, cleaned, groomed, medicated, etc.) for a total of forty-five (45) days or more in any twelve (12) month period. The days do not have to be consecutive.

5 **A. Existing Facility:** Shall apply to any livestock confinement facility that was legally in existence prior to the effective date of this ordinance.

10 **B. Existing Development:** Shall refer to uses and activities that are nonagricultural or nonindustrial in nature including, but not limited to: dwelling on a property less than ten (10) acres in size and that is under construction, occupied, or listed for rent or sale; amusement or recreation facility; outdoor auction establishment; bed and breakfast establishment; boarding house; children's treatment facility; campground; church; club or lodge or social hall; daycare facility; drug and alcohol treatment facility; golf course; skilled nursing facility; racetrack; residential care facility; and/or school. However, the term shall not include dwellings and/or establishments associated with the AFO operation.

15 **Livestock Husbandry:** The agricultural practice concerned with the care and breeding of domestic animals including, but not limited to, cattle, hogs, sheep, and horses.

20 **Long Term Sustainability:** A development or use that maintains or enhances economic opportunity and community well-being while protecting the natural environment upon which people and economies depend. It is development that meets the need of the present without compromising the ability of future generations to achieve their needs.

**Lot:** A parcel, plot, or tract or other contiguous land area which is created by subdivision for sale, transfer, or lease.

**Lot Area:** The total area of a lot measured on a horizontal plane within the boundary lines exclusive of public and private roads, and access easements to other property.

25 **Lot Line Adjustment:** See Property Boundary Adjustment.

**Lot Lines:** Boundaries or limits of a lot.

**Lowest Adjacent Grade (LAG):** The lowest point of the ground level next to the structure. Refer to the FEMA elevation certificate for LAG related to building elevation information.

30 **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement or crawl space). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR Part 60.3 and this chapter.

35 **Lumber Mill, Permanent:** A site where equipment and buildings are permanently located to saw, plane, or mill tree logs into posts, poles, building logs, lumber, dimensional lumber or similar products.

**Lumber Mill, Portable:** A temporary enterprise where trees are harvested, cut, and milled on the same site or an area where logs are delivered to and processed with equipment that has temporarily been located on the site.

**Machine Shop:** A workshop in which work is machined to size and assembled.

40 **Major Structural Modification:** Modifications that impact the earthquake, snow load, wind shear, or structural integrity of the building.

**Manufactured Home:** A structure, transportable in one or more Sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities (consistent with the National Manufactured Housing Construction and Safety



Standards Act of 1974, and as amended). The term "manufactured home" does not include a "recreational vehicle."

A. A dwelling which is constructed off site and constructed according to HUD/FHA construction and safety standards and as defined by Idaho Code Section 39-4105.

B. A rehabilitated dwelling certified by the state of Idaho department of labor and industry, building safety division.

C. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. The term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**Manufactured/Mobile Home Park:** Any area, tract, plot or parcel of land designed exclusively for siting manufactured/mobile homes for dwelling purposes on individual spaces that are rented or leased. The siting of manufactured/mobile homes are on a semi-permanent or permanent basis but not a transient basis (i.e., recreational vehicles).

**Manufactured Home Subdivision:** A residential subdivision developed exclusively for siting manufactured homes on individual lots under individual ownership.

**Mean High Water Mark:** A water level corresponding to the natural or ordinary high-water mark and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes. The mean high-water mark is established by the U.S. Army Corps of Engineers.

**Meat, Poultry or Fish Packing:** A facility which includes meat canning, curing, smoking, salting, packing, rendering, or freezing of meat products or a facility in which meat products are so processed for sale to the public and where the inspection of meat, meat by-products and meat food products are maintained.

**Microbrewery:** A small brewery, generally producing fewer than ten thousand (10,000) barrels of lager and ale a year and frequently selling its products on the premises. Also called boutique brewery, brewpub. Sale and consumption of alcoholic beverages is limited to lager, ale, wine, and cider. A microbrewery may include, but is not limited to, the following: tasting rooms, barrel rooms, bottling rooms, tank rooms, laboratories, processing structure, and offices.

**Mineral Extraction:** Any mining, quarrying, excavating, extraction of core samples, processing, storing, separating, cleaning, or marketing of any natural mineral resource.

**Minimum Standards for Building Construction:** Construction procedures and techniques necessary to ensure the structure meets health and safety requirements per the applicable code.

**Mining:** Process or business of extracting from the earth the precious or valuable metals, either in their native state or in their ores.

**Mitigation:** Measures to avoid impacts, minimize impacts, restore impacted areas, and compensate for impacts to a natural resource attributable to a proposed action.

**Mitigation, Appropriate:** Mitigation which avoids impacts to, minimizes impacts to, restores, or replaces the functions and values of a natural resource, and is consistent with the scope and degree of those impacts attributable to a proposed action.

**Mitigation, Practical:** Mitigation which is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Mobile Office:** A detached mobile unit not intended for occupancy as a dwelling unit designed to be transported after fabrication on its own wheels or on flatbed or other trailers or detached wheels. Use

of mobile office at other than a construction site or a subdivision sales office requires a conditional use permit.

**Mobile Home:** A transportable, factory-built residential dwelling, (trailer house) which was constructed prior to enactment of the National Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, or has been rehabilitated according to standards, set by Title 44 of the Idaho Code.

**Modular Building:** Any building or building component, other than a manufactured home, and is either entirely or substantially prefabricated or assembled at a place other than the building site. Modular homes are subject to the same standards as site-built homes. Modular buildings are not required to comply with the National Manufactured Home Construction and Safety Standards Act of 1974.

**Mortuary:** A facility in which deceased human bodies are kept and prepared for burial or cremation.

**Municipal Solid Waste Landfills (MSWLF):** A discrete area of land or excavation that receives municipal solid waste (e.g., household waste). This term is synonymous with "sanitary landfill" and shall be regarded as such throughout this document.

**Museum:** Institution displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes museums and art galleries.

**MUTCD:** Manual on Uniform Traffic Control Devices

**Natural Resources:** One of the Comprehensive Plan's components that includes the climate, geology (mountains and valleys), hydrology (rivers and streams), soils, vegetation (forests and all other plants), wildlife (game, fisheries and aviaries), scenic vistas, and air quality.

**National Scenic Byway:** A road recognized by the U.S. Department of Transportation for its archeological, cultural, historic, natural, recreational, and scenic qualities. The program was established by Congress in 1991, to preserve and protect the nation's scenic but less traveled roads and promote tourism and economic development. The program is administered by the Federal Highway Administration. Oneida County has one (1) Scenic Byway which is the Oregon Trail Bear Lake Scenic Byway.

**Neighborhood:** An area of a community with characteristics that distinguish it from other community areas and that may include schools, or social clubs, or boundaries defined by physical barriers, such as major highways and railroads, or natural features, such as rivers.

**New Construction:** Structures for which the "start of construction" commenced on or after the effective date of this ordinance. This includes substantial improvement and means either the first placement of permanent construction of a structure on a site, such as pouring of 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.

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after September 27, 1985, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final



site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted Oneida County Development Ordinance.

**No Adverse Impact:** A requirement that ensures the action of any property owner, public or private, does not adversely impact the property and rights of others.

5 **No-Net-Loss:** Measure of the success of mitigation that requires avoidance, minimization, restoration, and compensation of all functions and values of a natural resource impacted by a proposed action.

**Noncombustible:** A construction material that, in the form in which it is used, is one of the following:

- 1) Material of which no part will ignite and burn when subjected to fire. Any material conforming to ASTM E 136 shall be considered noncombustible within the meaning of this Section.
- 10 2) Material having a structural base of noncombustible material as defined in Item 1 above, with a surfacing material not over 1/8 inch thick, which has a flame spread rating of 50 or less. Flame spread rating as used herein refers to rating obtained according to tests conducted as specified in ASTM E 84.
- 15 3) "Noncombustible" does not apply to surface finish materials. Material required to be noncombustible for reduced clearances to flues, heating appliances or other sources of high temperature shall refer to material conforming to Item 1. No material shall be classed as noncombustible that is subject to increase in combustibility or flame spread rating, beyond the limits herein established, through the effects of age, moisture, or other atmospheric condition.

**Noncombustible Roof Covering:** means one of the following:

- 20 1) Cement shingles or sheets.
- 2) Exposed concrete slab roof.
- 3) Ferrous or copper shingles or sheets.
- 4) Slate shingles.
- 5) Clay or concrete roofing tile.
- 25 6) Metal roofs.
- 7) Approved roof covering of noncombustible material.

30 **Non-conforming Building:** A building or structure or portion thereof lawfully existing or being lawfully constructed prior to March 1997 when the first Zoning and Development Ordinance was passed, which was designed, erected or structurally altered for a use, or to dimensional standards that do not conform to the requirements for structures and/or uses as outlined by this Ordinance.

**Non-conforming Lot:** A lot of record which was lawfully existing prior to January 1, 2000, but which, because of the application of this Ordinance to it, no longer conforms to lot area or width requirements prescribed in this Ordinance.

35 **Non-conforming Use:** A use which was lawfully established and maintained prior to January 1, 2000, but which, because of the application of this Ordinance to it, no longer conforms to the use regulations.

**Non-Permanent Structure:** A building, mobile home, manufactured home, or any other structure that is not located on a permanent foundation or does not have approved and/or lawful sewage disposal system in place.

40 **Non-Profit:** as defined by the IRS code.

**Noxious Weed Ordinance:** A regulation established by the County that directs the control of noxious weeds.

**Noxious Weeds:** Any plant having the potential to cause injury to public health, crops, livestock, land or other property; and which is designated as noxious by the director of the Department of Agriculture or the director's designated agent.

5 **Nursery, Retail:** Any grounds, structures, greenhouses, or premises in which garden, farm, landscaping, or florist's stock is propagated, grown, stored, or packed for commercial sale, and where the public may purchase goods in small quantities.

**Nursery, Wholesale:** Any grounds, structures, greenhouses, or premises in which garden, farm, landscaping, or florist's stock is propagated, grown, stored, or packed for commercial sale, and where the owner/operator sells the goods in large quantities to a limited number of buyers.

10 **Nursing Facility, Skilled:** An establishment that provides permanent provisions for living, sleeping, eating, cooking, and sanitation and that provides healthcare needs to more than eight (8) individuals who, at a minimum, require: a) inpatient care and services for twenty four (24) or more consecutive hours for unstable chronic health problems, b) daily professional nursing supervision and licensed nursing care on a twenty four (24) hour basis, and c) restorative, rehabilitative care and assistance in  
15 meeting daily living needs. Medical supervision may be necessary on a regular, but not daily, basis. A skilled nursing facility shall include, but not be limited to: nursing home, nursing facility, convalescent home, intermediate care, and subacute care.

**Objectives:** Statements of attainable, quantifiable, intermediate-term achievements that help accomplish goals contained in the Comprehensive Plan.

20 **Off-Street Parking:** An improved hard surfaced area for vehicle parking either within a structure or in the open and connected to a public street, alley, or other public way by a permanently surfaced driveway or access drive.

25 **Offices, Business and Professional:** Offices of firms or organizations providing professional, executive, management, or administrative services. This classification includes medical/dental laboratories incidental to an office use but excludes banks and savings and loan associations.

**Office, Medical and Dental:** A facility for a group of one (1) or more physicians for the examination and treatment of human patients, primarily engaged in furnishing, on an outpatient basis, chiropractic, dental, medical, surgical, medical imaging, or other services to individuals. Patients are not kept overnight. Ancillary laboratory facilities may be included.

30 **Official Rural Addressing System Numbering Maps:** The maps showing all the roads within Oneida County with the official address numbering grid system and address number ranges.

**Official Road Name List:** The list containing the official road names within the incorporated and unincorporated areas of Oneida County. Said list shall be composed of all road names having been given official recognition by the Board and the Councils.

35 **Official Road Name Maps:** The maps showing all the roads within Oneida County with the official name shown thereon.

40 **Oil and Gas Extraction:** Activities necessary for removing natural gas or oil from underground and bringing it up to ground level, or any activities, the purpose of which is to remove these materials from natural pools or reservoirs beneath the earth's surface, including well drilling, injection, pumping, and including ancillary activities and facilities necessary for such extraction, without which the extraction could not occur.

**One Time Division:** The division of an original parcel into two (2) parts without being subject to the subdivision regulations as set forth in Chapter 4, Article B.

45 **Oneida County Road and Bridge Department (RBD):** Department responsible for operation and maintenance of roads and streets dedicated to the County.



**Open Burning:** The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct, or chimney, and that are not otherwise recreational fires.

**Orchard:** A property in agriculture that is five (5) acres in size or greater, used to grow and cultivate fruit or nut trees.

**Ordinance:** A regulation set forth and adopted by a governmental authority.

**Ordinary High-Water Mark:** The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

**Original Parcel:** An original parcel of land is hereby defined as an un-platted land or tract in single ownership, of record or on file in the office of the Oneida County Recorder on January 1, 2000, or any un-platted contiguous parcel of land held in one ownership and of record on January 1, 2000.

**Outdoor Assembly:** A company of persons estimated to equal 100 or more persons gathered at any location, at any single time, for any lawful purpose.

**Outdoor Storage Building:** A structure constructed as the principal building on a property but does not include a dwelling unit as hereinafter defined.

**Outdoor Storage of Materials:** Material (including, but not limited to, goods, wares, merchandise, or vehicles) that is kept in the same place for more than seventy-two (72) hours in an open area. The term outdoor storage shall include material that is kept under a pole barn structure or any structure that is less than fully enclosed.

**Overlay:** An area with special standards and concerns.

**Overlay Land Use:** A use where certain additional requirements are superimposed upon an existing land use and where the requirements of the underlying use may or may not be altered and address special land use circumstances or environmental safeguards over the underlying existing land use. Permitted uses in the underlying use shall continue subject to compliance with the requirements of the overlay use.

**Owner:** An individual, firm, association, organization, partnership, trust, company, corporation, or any other legal entity who owns or holds title to real property.

**Parcel:** A tract of unplatted land or contiguous unplatted land (if applicable), in single ownership, considered a unit for purposes of development.

**Park and Recreational Facilities:** Publicly owned parks, playgrounds, recreation and entertainment facilities, and open spaces.

**Parking Lot, Parking Garage:** Parking lots or garages offering short term or long-term parking.

**Parking Lot, Parking Garage, Commercial:** Parking lots or garages offering short term or long-term parking to the public for a fee.

**Parking Lot, Parking Garage, Government:** Parking lots or garages which are owned by a government agency, and which offer short term or long-term parking to the public for no charge or for a fee.

**Performance Bond:** An amount of money or other negotiable security paid by the developer or his surety to the County Treasurer, which guarantees that the subdivider will perform all action required by the governing body regarding an approved plat, and provides that if the developer defaults and fails

to comply with the provisions of an approved plat, the subdivider or his surety will provide funds to the County up to the limit of the bond, or the surety will itself complete the requirements of the approved plat.

**Permanent Foundation:** A concrete or timbered structure, the primary purpose of which is the support of a structure or sign.

**Perpetual:** Continuing forever, valid for all time.

**Person:** Any person, individual, firm, partnership, trustee, corporation, or association.

**Personal Improvement:** Provision of instructional services or facilities, including photography, fine arts, crafts, dance, or music studios, driving schools, and fitness studios.

**Personal Services:** Provision of commercial services to the public such as shoe repair, watch repair, barbershops, beauty parlors, pet grooming, massage therapy, and similar activities.

**Personal Wireless Facilities:** Facilities necessary for the provision of personal wireless services (i.e., towers, support buildings, etc.).

**Personal Wireless Facilities (Within Enclosed Building):** Facilities necessary for the provision of personal wireless services (i.e., antennas) that are located within a building or on a building and screened from view.

**Personal Wireless Services:** Commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the public.

**Photographic Studio:** An establishment for taking or developing photographs on site for a fee or compensation.

**Pit, Mine, or Quarry:** The various activities associated with excavating valuable minerals from the ground, including, but not limited to, excavating a pit, removing the resource, processing the resource, disposing of unwanted material, and building a roadway to accommodate hauling trucks.

**Planing Mill:** A facility takes cut and seasoned boards from a sawmill and turns them into finished dimensional lumber.

**Planned Community (PC):** A subdivision development with a minimum of 640 acres and is located outside existing areas of City Impact. The Planned Community has a boundary that enhances the area's ability to incorporate or be annexed. A variety of residential, commercial, and industrial uses develop in a pre-planned environment.

**Planned Community Base District:** An area of land with a minimum of 640 acres which is located outside existing Areas of City Impact. The Planned Community has a boundary that enhances the area's ability to incorporate or be annexed. A variety of residential, commercial, and industrial uses develop in a pre-planned environment; which may become a taxing district.

**Planned Unit Development (PUD):** An area of land in which residential, commercial, or industrial uses, or any combination thereof, are developed under single ownership or control and accommodated in a pre-planned environment with more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations.

**Planning & Zoning Administrator:** An official having knowledge in the principles and practices of zoning who is appointed by the Board to administer this title.

**Plat:** The drawing, map or plan of a subdivision, condominium, cemetery, or townsite, into lots, blocks, and roads in accordance with Idaho Code Title 50, Chapter 13.



**Plat, Minor Subdivision:** That drawing for a subdivision of land containing not more than four (4) lots.

**Plat, Full Subdivision:** That drawing for a subdivision of land containing more than four, but less than 30 lots.

5 **Plat, Large Scale Subdivision:** A drawing for a subdivision of land containing thirty or more lots.

**Plat, Amendment:** A drawing for an amendment to a platted Subdivision or Condominium.

**Plat, Partial Amendment:** A drawing for an amendment to a platted Subdivision consisting of not more than four lots, parcels or tracts.

10 **Plat, Preliminary Subdivision:** A drawing for a subdivision which meets the requirements of the county ordinance but has not yet been accepted by the Board for recordation.

**Plat, Final Subdivision:** A drawing and plan for a subdivision prepared for filing and recording and containing those elements and meeting those requirements set forth in the county ordinance and which has been approved by the Oneida County Commissioners and filed with the Oneida County Recorder.

15 **Platted Lot:** Any lot created through an approved subdivision application and duly recorded plat shall thereafter be considered a platted lot.

**Population Forecast:** Specific estimating techniques used to make statistical determinations of population growth/decline using parameters that establish population dynamics.

20 **Power Facility:** A facility associated with the production or transmission of electricity, including wind, geothermal, solar, biomass, and hydroelectric power facilities; or a power substation, an electric substation, a grid switching site, or an electric transmission, subtransmission or distribution line, any of which may or may not be regulated by the federal energy regulatory commission; or a facility qualifying under 18 CFR part 131.80.

25 **Prescribed Fire:** Planned burning of wild-land vegetation to reduce the risk and severity of unplanned forest or range land fire occurrence, to improve wildlife winter range conditions or to attract wintering animals back from private property.

**Principal Use:** The primary purpose for which a lot is arranged, intended, designed, occupied, or maintained.

30 **Printing and/or Blueprinting:** An establishment providing printing, blueprinting, photocopying, graphic design, engraving, binding, or related services.

**Private Property:** Property protected from public appropriation; over which the owner has exclusive and absolute rights.

35 **Private Property Rights (Idaho Code 67-6508(a)):** An analysis of provisions which may be necessary to ensure that land use policies, restrictions, conditions, and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property as prescribed under the declarations of purpose in Chapter 80, Title 67, Idaho Code. (See Appendix #1 - Idaho Attorney General's checklist)

40 **Private Property Rights Legislation:** Laws, procedural requirements, and ordinances established to protect property rights while accommodating other types of development and the health, safety, and general welfare of the people of Idaho.

**Private Road-Right-of-Way:** Privately owned land for a private road, usually contained within a subdivision common lot or a perpetual easement.

**Private Road/Street:** A private access not dedicated to public use or maintained by Oneida County.

**Property Boundary Adjustment:** A realignment of boundary lines between adjoining lots or parcels where no additional lots or parcels are created, and all new properties meet the minimum zoning requirements as set forth in the Oneida County development code.

5 **Property Owner:** The person(s) who is shown as owner in the Oneida County Recorder and Assessor Offices.

**Public Highway Agency:** This term includes the Oneida County Road Department and the Idaho Transportation Department.

10 **Public Infrastructure Facility:** Publicly owned amenities that may include, but not be limited to: a) pumping station for water, sewer, or gas; b) municipal wastewater collection and treatment facility or interim wastewater treatment system; c) utility shop, garage, or storage facility; d) park and ride lot; e) water reservoir and water tank; or f) storm drainage facility and storm detention facility.

**Public Lands:** Land owned by local, state, or federal government, used for purposes which benefit public health, safety, general welfare, and other needs of society.

15 **Public Participation:** The active and meaningful involvement of the public in the development of the land use/planning process.

20 **Public Service Facility:** The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public services structures by a public utility, by a railroad whether publicly owned or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water, and sewage services.

**Public Uses:** Public parks, fairgrounds, schools, administrative and cultural buildings, and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

25 **Public Utility:** Facilities owned and operated by a public utility as defined in Idaho Code Section 61-129.

**Public Utility Yard:** A yard where facilities such as utility shops, garages, or storage areas are located that are owned and operated by a public utility.

30 **Quality of Life:** The attributes or amenities that combine to make an area a good place to live. Examples include the availability of political, educational, and social support systems; good relations among constituent groups; a healthy physical environment; and economic opportunities for both individuals and businesses.

35 **Race:** Any event or gathering that includes a competition involving a contest of speed or completing a course in the shortest time. This applies to competitions accomplished in unison with a group or in a timed event, whether riding animals, being pulled by animals, foot races, swimming or by the use of a mechanically or human propelled device.

**Racetrack:** A structure, or portion thereof, used for racing vehicles or animals for recreation or profit and that may include accessory uses and structures normally associated with this activity.

40 **Railroad Yard:** A complex series of railroad tracks for storing, sorting, or loading/unloading, railroad cars and/or locomotives. Railroad yards have many tracks in parallel for keeping rolling stock stored off the mainline so that they do not obstruct the flow of traffic.

**Record of Survey (ROS):** That map filed as a result of a land survey by a licensed surveyor, in accordance with requirements of Idaho Code Title 55, Chapter 16, and/or Chapter 19.

**Recreation:** The pursuit of leisure-time activities.



**Recreation Land:** Land allocated for recreational uses.

**Recreational Fire:** The burning of any matter where fuel being burned is not contained in an incinerator, outdoor fireplace or barbecue pit and with a total fuel area of three feet (3') or less in diameter and two feet (2') or less in height for pleasure, religious, ceremonial, cooking or similar purposes.

**Recreational Vehicle:** A vehicle:

- 1) built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a vehicle; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Recreational Vehicle Park:** A premises upon which two (2) or more parking sites are located, established, or maintained for occupancy by recreational vehicles for temporary use for recreation or vacation purposes.

**Recreationist:** The recreationist is a person who comes to recreate, usually at public forest lands and rivers.

**Recycling Center:** An establishment that is not a junkyard and in which recoverable resource materials, such as paper products, glassware, and metal cans, are collected, sorted, flattened, crushed, or bundled within a primarily completely enclosed structure prior to shipment to others who use such resource materials to manufacture new products.

**Reduction Of Animal Matter:** Any process; including, but not limited to, rendering, cooking, drying, dehydration, digesting, evaporating, and protein concentrating.

**RedZone:** A software database used to evaluate and compile information on individual homes. The database is used by fire departments to identify access, water supply, construction type and other information useful prior to responding to an actual fire.

**Regulatory Floodway:** See Floodway.

**Repetitive Loss:** Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

**Re-plat:** The process by which a previously recorded subdivision plat, or portion of, a plat is modified.

**Research Activities:** Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering.

**Reserve Strip:** Strip of land between a dedicated road or partial road and adjacent property, in either case, reserved or held in public ownership for future road extension or widening.

**Residence:** A building used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

**Resident:** A person who lives in a particular place.

**Residential Care Facility:** An establishment that provides permanent provisions for living, sleeping, eating, cooking, and sanitation and that provides twenty-four (24) hour nonmedical care for more than

eight (8) individuals who need personal care or assistance and supervision. A residential care facility shall include, but not be limited to, assisted living facility, retirement home, and respite care.

**Residential and Development Patterns:** Geographical sites of capital improvements identified and mapped by the location and date of issued residential and conditional use permits.

5 **Residential Building Standards:** A measure, norm, or model in comparative evaluations that would meet health and safety standards, plumbing and electrical Idaho Building Codes that allow for phased building over a period of time; as defined in the county adopted building standards.

10 **Residential Use:** A building or portion thereof designed exclusively for residential occupancy, including one-family, two-family and multiple-family dwellings, but not including hotels, boarding and lodging houses, trailers, camp trailers, motor homes or recreational vehicles.

**Resolution:** A recorded formal expression of the will of an official public body adopted by vote. Resolutions are routinely used to guide internal policymaking as well as program and service delivery.

15 **Restaurant:** Any land, building or part thereof, other than a boarding house or bed and breakfast, where meals are provided for compensation, including, but not limited to, such uses as cafe, cafeteria, coffee shop, lunchroom, and dining room.

**Retail Sales:**

20 A. General: The retail sale of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, video stores, and furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies, electronic equipment, records, sporting goods, bicycles, kitchen utensils, hardware, appliances, art antiques, art supplies and services, paint and wallpaper, carpeting and floor coverings, and office supplies.

B. Limited: Excludes furniture, hardware, paint and wallpaper, carpeting and floorcovering, and similar uses.

25 C. Pharmacies and Medical: Establishments primarily selling prescription drugs, and medical supplies and equipment.

D. Artisan: Handmade items, foodstuffs, and crafts made on the premises. Artisan sales is the only retail sales subclassification that is permitted as part of a home occupation use.

30 **Riding Stable/Equestrian Use:** A building or structure used or designed for the boarding or care of riding horses for remuneration, hire or sale.

**Right-of-Way:** A strip of land dedicated or reserved for use as a public street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special uses.

35 **Riparian Area:** All lands within and adjacent to areas of groundwater discharge or standing and flowing surface waters where the vegetation community is significantly affected by the temporary, seasonal, or permanent presence of water. Examples include springs, seeps, creeks, streams, rivers, ponds, and lakes and their margins.

**Riparian Community:** All plant and animal species within a given riparian area.

40 **Riparian Habitat:** An area where a plant or animal lives; the sum total of environmental conditions in the area. It may also refer to the place occupied by an entire community of plants or animals.

**Road:** See "Highway Standards and Roadway Development Procedures for Oneida County" adopted by Resolution by the Board.



**Road, Frontage:** Minor road parallel and adjacent to a major route that intercepts local traffic and controls access to the major route.

**Road, Arterial, Urban, Collector, or Local:** See "Highway Standards and Roadway Development Procedures for Oneida County" adopted by Resolution by the Board.

5 **Road Maintenance Agreement:** A private contract between landowners to maintain private roads.

**Road/Street, Public:** Those vehicular travel ways with right-of-way owned by Oneida County or dedicated to public use and maintained by Oneida County. State Highways are also considered as Public Roads.

10 **Roadside Stand:** A temporary or mobile structure designed or used for the display or sale of products or services.

**Roadway:** See "Highway Standards and Roadway Development Procedures for Oneida County" adopted by Resolution by the Board.

**Rural:** A sparsely developed area where the land is primarily used for farming, forestry, resource extraction, very low-density residential uses, or open space uses.

15 **Rural Character:** Rural areas include the mixture of agricultural uses, green fields, open space, rangeland, forest, high desert and other rural land characteristics.

**Rural Residential Land:** Those parcels of private land in Oneida County which are rural in character and used primarily for residential purposes.

20 **Sanitary Landfill:** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternating layers of specified depth in accordance with an approved plan.

25 **Salvage Yard:** A place where scrap, used tires, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations conducted on the premises. Farm machinery and equipment in agricultural zones are exempt.

30 **Sand and Gravel Yard:** An area that is being used for the purpose of removing the sand or gravel from the land for wholesale or retail use; excavating and removing rock, stone, ore, soil, gravel, sand, minerals, and similar materials from the surface and/or subsurface for profit. Extractive industries are quarries, sand and gravel pits, mines, and soil removal operations. They are intensive operations that may generate large amounts of truck traffic, noise (including blasting), and dust. Much of the activity may result in odors from asphalt plants, noise and dust from sifters, crushers, and loading and unloading trucks, as well as runoff from washing material and cleaning operations and water sprayed to keep dust down.

**Sanitary Landfill:** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental and health hazards by spreading, compacting, and covering the solid wastes. This term is synonymous with the term MSWLF.

40 **Scenic Byway:** Are typically secondary roads having significant cultural, historic, scenic, geological, or natural features.

**Scenic Route:** A road or path designed to take one past a pleasant view or nice scenery; usually not the most used or most direct route.

**School, Public or Private:** An institution of learning that offers academic instruction in the courses that are required by the State of Idaho to be taught in public schools. "School" includes; pre-school, kindergarten, elementary, middle, junior high, senior high, trade school, vocational school, and any higher learning school sanctioned by the State (i.e., colleges, universities, etc.). Privately funded schools whose curriculum meets the State of Idaho standards shall be included in this definition. School, Public or Private does not include "Home School".

**School Bus Routes:** Roads used for transporting children to and from school by busses that have been designated by the school districts and recognized by the county.

**School Development Agreement:** Voluntary funding allocated by developers of new residential or commercial facilities to the affected school district to help offset the effects caused by increased demands on the school district infrastructure/services.

**Screen:** A visual barrier which may consist of natural or manmade materials.

**Separation Standard:** The distance required pursuant to state statute to separate uses such as a bar/tavern from a school or church.

**Setbacks:** The space between every structure and all property lines on the lot on which structures are located, required to be left open and unoccupied by buildings or structures, either by the front, side, or rear yard requirements of county ordinance, or by delineation on a recorded subdivision map.

**Shall:** A word that indicates that the requirement is mandatory.

**Sheriff:** The dually elected law enforcement officer within Oneida County. The Sheriff, or his deputy, is the official designated by Title 41 Chapter 2 of the Idaho State Statutes as an assistant to the State Fire Marshal to enforce the adopted International Fire Code and rules of the State Fire Marshal in all unincorporated areas not included in a fire protection district. As such, the Sheriff is the approving official for all Fire Protection Plans required for subdivision and CUP applications in the unincorporated areas of Oneida County not served by a Fire Protection District.

**Shooting Range:** An establishment, indoor or outdoor, that allows for the safe practice of archery or shooting firearms and that may include accessory uses and structures normally associated with this activity.

**Shopping Center:** A group of commercial establishments, planned, developed, owned and/or managed as a unit related in location, size and type of shops to the trade area the unit serves.

**Significant Change:** A deviation from the original plan, between the preliminary plat submitted and the final plat submitted; including; 1) change in lot density, 2) change in exterior boundary of subdivision, or 3) change in road access points.

**Signs, On-Premises:** Any sign or advertising structure that the message identifies the property on which the sign is located, its owner or tenant, or directs attention to an offer for sale, lease or rent of said property, or warns the public as to danger, or trespassing thereon, or directs the public upon said property, or informs the public as to current or proposed use of the property, or recites the name of the land use, business, proprietor or nature of products or services provided or manufactured upon said property.

**Signs, Off-Premise or Outdoor Advertising:** Any sign that directs attention to the use, name, business, commodity, service, entertainment or land use conducted, sold, or offered elsewhere than the sign location.

**Signs, Non-Conforming:** Any sign, sign structure or use of sign existing prior to 1997 and does not conform to the standards cited by this ordinance.



**Signs, Temporary:** Any sign that is designed and intended for use less than twelve (12) months and that is not permanently mounted.

**Site Plan:** A scaled drawing of existing and planned conditions to facilitate review and approval of an application.

5 **Sketch Plan:** A layout of the lots, blocks, roads, easements, and general characteristics of the land and proposed development, including preliminary landscape (when applicable) and open space plans, drawn to scale.

10 **Slaughterhouse:** A facility where animals are slaughtered, dressed, processed, and prepared for human or animal consumption, including any incidental rendering of by-products. This definition includes commercial meat processing plants and packing houses but does not include small-scale on-farm slaughter for personal, non-commercial use as allowed under state or federal law. Operations may include live animal holding areas, waste handling, refrigeration, and distribution. Facilities must comply with all applicable local, state, and federal health, safety, and environmental regulations, including those administered by the Idaho State Department of Agriculture and the USDA.

15 **Slope:** The variation of terrain from the horizontal; the number of feet (meters) rise or fall per 100 feet measured horizontally, expressed as a percentage. Measured variation of a surface from a horizontal plane; Units of measurement may include, but are not limited to, percents, degrees, radians, and ratios.

20 **Snow Routes:** Roads given priority for snow removal by allocating individual or groups of snowplows under varying levels of service and availability of equipment, weather conditions, driving hazards, and special treatment areas to maintain winter access.

**Special Hazard Area (SFHA):** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. For purposes of these regulations, the term SPECIAL FLOOD HAZARD AREA is synonymous in meaning with the phrase "area of special flood hazard".

25 **Special Planning Area:** Those areas of Oneida County that, due to unusual aspects of the property, require additional planning and design considerations. This includes, but is not limited to, steep slopes, flood prone areas, unstable soils, access, and fire hazard; also known as Area of Special Concern.

**Special Use Permit:** See conditional use permit.

30 **Sponsor:** Any person who organizes, promotes, conducts, or causes to be conducted, an assembly of persons.

**Stables, Riding:** Establishments offering facilities for instruction in horseback riding, including rings, stables, and exercise areas, and facilities for the care and exercise of horses and related equestrian activities.

**Staff:** Any Oneida County officer or employee tasked with county business.

35 **Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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  
40 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 foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of

construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**State Highway:** A term applied to streets and roads that are under the jurisdiction of the Idaho Transportation Board.

- 5 **State Highway Corridors:** An area of land, 300-feet on each side of the right-of-way, following a State of Idaho highway, especially one connecting major towns or cities.

**Storage Facility, Self-Service:** A structure or group of structures with a controlled access and fenced compound that contains individual, compartmentalized, or controlled units that are leased or sold to store material (including, but not limited to, goods, wares, merchandise, or vehicles).

- 10 **Stream:** A natural watercourse of perceptible extent with defined beds and banks, which confines and conducts continuously or intermittently flowing water for 3 or more continuous months per year.

**Street:** See "Highway Standards and Roadway Development Procedures for Oneida County" adopted by Resolution by the Board.

- 15 **Strip Development:** Commercial, retail, or industrial development, usually one lot deep, which fronts on a major street.

**Structure:** Anything constructed or erected, except fences, which requires permanent location on or below grade, or is attached to something having permanent location on the ground.

For the purposes of floodplain management, a walled and roofed building, including a gas or liquid storage tank that is principally aboveground, as well as a manufactured home.

- 20 **Subdivision:** A tract of land divided into two (2) or more lots, 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 bona fide 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 without development (building permit). Oneida County requires a subdivision to be a minimum of two  
25 (2) lots. The term subdivision also refers to the act of dividing a parcel of land into two (2) or more lots as set forth above. The beginning date for lots for the purpose of subdivisions shall be established as January 1, 2000.

The following land divisions do not constitute a subdivision for the purposes of this title:

- 30 A. Property boundary adjustments, as defined herein, and filed with the county recorder where no additional parcels are created and where all parcels comply with the requirements of the underlying zoning classification.
- B. Divisions made as the result of the exercise of the powers of eminent domain as defined and allowed for by Idaho Code.
- 35 C. Divisions made for the expansion or acquisition of road rights of way by a public agency.
- D. Divisions for conveyance of land to Oneida County, a public entity, homeowners' association, or public utility for a public or common purpose (well site, drainage site, fire station, school site, park site, etc.).
- 40 E. Division of land into quarter-quarter sections or into parcels equal to or more than forty (40) acres without development (building permit) capacity.
- F. Division of land required by a financial institution for mortgage purposes.
- G. One-Time Division



**Subdivision, Cemetery:** An area of individual lots planned for the selling of sites for the burial of animal or human remains as per Idaho Code Section 50-1303.

**Subdivision, Full:** Any proposed subdivision of land containing more than four (4), but less than 30 lots.

5 **Subdivision, Hillside:** Any proposed subdivision containing lot(s) that meet any one of the following criteria:

- 1) The average slope of a proposed lot(s) is ten percent (10%) or more or where adverse conditions associated with slope stability, erosion, or sedimentation are identified by the County Engineer during the on-site inspection; or
- 10 2) The cut or fill slopes of a proposed lot(s) exceed three (3) horizontal to one (1) vertical; or
- 3) A proposed lot(s) has vertical cut of ten (10) feet or more with a disturbed surface more than thirty-six (36) feet from the edge of a vehicular travel way.

**Subdivision, Large Scale:** Any proposed subdivision of land containing thirty or more lots.

15 **Subdivision, Minor:** Any subdivision containing not more than four (4) lots fronting on an existing street; not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements; and not adversely affecting the remainder of the parcel or adjoining property; and not in conflict with any provision or portion of the comprehensive plan, official zoning map, or this development code.

20 **Subdivision Sales Office:** A temporary sales office utilized for the sales of homes located within a new subdivision.

**Substantial Change:** Any change that could be expected to have a material bearing on the decision-making process or the public's or an agency's reasonable expectations. A change in conformation to the information provided at the time of application, or any increase in the number of lots or significant change of their configuration.

25 **Substantial Conformance:** A final plat shall be deemed to be in substantial conformance to a preliminary plat provided that the final plat represents no increase in the number of lots as approved for the preliminary plat and a twenty-five percent (25%) or less deviation of any dimensional standard shown on the preliminary plat is achieved. Unless required by a public highway agency, public utility, or federal or state agency, deviations greater than twenty-five percent (25%) or more of any dimensional standard shown on the preliminary plat shall not be deemed in substantial conformance.

30 **Substantial Damage:** Damage of any origin sustained by a building whereby the cost of restoring the structure to its before damaged condition would equal or exceed forty percent (40%) of the market value of the structure before the damage occurred. Substantial Damage also means flood-related damage sustained by a structure on two (2) separate occasions during a ten (10) year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty percent (20%) of the market value of the structure before the damage occurred. See definition of Substantial Improvement.

35 **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds forty percent (40%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- 40 A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 45

B. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure" and the alteration is approved by variance issued pursuant to this chapter.

**Tax Parcel:** A parcel identified by a tax number for taxing purposes.

5 **Temporary Use:** A use established for a fixed period of time with the intent that such use will terminate automatically upon expiration of the fixed time period unless permission to conduct the use is renewed.

**Theater, Indoor or Outdoor:** A building, room, or outdoor structure for the presentation of plays, films, or other dramatic performances.

10 **Through Lot:** A lot that abuts on two approximately parallel roads.

**Tourism:** The business of providing services for persons traveling for pleasure. Tourism contributes to the vitality of the community by providing revenue to local business. Level of tourism can be measured through changes in the transient occupancy tax or restaurant sales.

15 **Tourist:** A person to whom Oneida County is a destination point, and he/she comes to see historical, archeological, or other special sites as part of their travel plans.

**Tourist Information Center:** A physical location providing visitors to a location with information on the area's attractions, lodgings, maps, and other items relevant to tourism. Often, these centers are operated by the local government or chamber of commerce.

20 **Tract:** An area of unplatted land or contiguous unplatted land (if applicable), in single ownership, considered a unit for purposes of development. The existence of private easements, roads, or other rights of way within the area of unplatted land are not determinative as to whether an area of land falls within this definition.

**Transfer Station:** A site where recyclables and refuse are collected and sorted in preparation for processing or landfill.

25 **Transitional Housing:** A building where families who may or may not have access to traditional or permanent housing but who are capable of living independently within a reasonable period of time, generally about 18 months, reside on a 24-hour-per day basis for at least 30 days and participate in appropriate program activities designed to facilitate independent living.

30 **Transportation Corridors:** Routes identified and reserved for future development and use when population growth expands sufficiently to warrant construction.

**Transportation Master Plan:** A map, and plan, of the county that shows current, planned, and future transportation needs when growth warrants.

**Treatment or Rehabilitation Facility:** A facility where therapy is provided to nine (9) or more individuals for medical reasons, substance abuse, mental illness, or other behavioral problems.

35 **Tree Crown:** The primary and secondary branches growing out from the main stem, together with twigs and foliage.

**Truck Gardening:** The raising of vegetables for market (such as a farmer's markets).

**Truck and Equipment Repair and Sales (Heavy):** The sale of vehicles and accessories primarily designed to carry cargo and material. Truck sales often involve the assembly of chassis and cabs.

40 **Truck Stop:** The use of any land, buildings, or structures upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial motor vehicles is conducted or rendered including the dispensing of motor fuel or petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial motor vehicles. A truck stop may



also include overnight accommodation, laundry, and shower facilities for the Use of truck crews, and Restaurant facilities.

**Turf and/or Tree Farm:** A property for agricultural use that is five (5) acres in size or greater and is used for the purpose of growing turf and/or trees.

5 **U.S. Forest Service (USDA Forest Service):** An agency of the Department of Agriculture that manages forest and range resources, primarily in the western United States.

**Unenclosed Accessory Structure:** An accessory structure without a complete exterior wall system enclosing the area under roof or floor above.

10 **Unincorporated:** An area not chartered as a self-governing village or city; lacking the tax, police, and other powers conferred by the state on incorporated towns.

**Upholstery Shop:** A place where household furniture, vehicle, boats, or recreational vehicle seats and/or furniture are recovered with fabric.

**Urban:** All population and territory within the boundaries of urbanized areas and the urban portion of places outside of urbanized area that have a decennial census population of 2,500 or more.

15 **Urgent Care:** A facility where the diagnosis and treatment of medical conditions which are serious or acute but pose no immediate threat to life and health, but which requires medical attention within 24 hours.

20 **User Fees:** A fee charged by the federal government or other unit of government to recipients of its goods or services. User fees generally apply to activities that provide special benefits to identifiable recipients, and the amount of the fee is usually related to the cost of the good or service provided.

**Utilities:** Installations or equipment, underground or overhead, furnished for use by the public, including but not limited to electricity, gas, steam, television, communications, water, drainage, irrigation, sewage disposal, or flood control, owned and operated by any person, firm, corporation, municipal department, or board duly authorized by state or municipal regulations.

25 **Variance:** (1) A grant of relief from certain provisions of a county ordinance when, because of unique, natural site characteristics of a property, compliance would result in undue hardship upon the owner as distinguished from a mere inconvenience or inability to receive greater profit, and which would not be contrary to the public interest, health, and safety. (Idaho Code Title 67, Chapter 65).

30 (2) If specifically set forth in such ordinance, a grant of relief from the requirements of a Oneida County Land Use Ordinance that permits action that would otherwise be prohibited by the ordinance.

**Vested:** Guaranteed as a legal right.

**Veterinary Health Clinics:** Any building or portion thereof designated for the care or treatment of cats, dogs, or other animals.

**Vicinity Map:** A small scale map showing the location of a tract of land in relation to a larger area.

35 **Vineyard:** A property in agriculture that is five (5) acres in size or greater, used for the purpose of growing and cultivating grapevines.

**Vision Statement:** A vivid idealized description of a desired outcome that inspires, energizes, and helps an organization or group create a mental picture of their target.

40 **Volunteer Fire Department (VFD):** A fire department organized and supported by volunteers that may operate from donations, subscriptions, but not tax dollars. The service boundaries of a volunteer department may be designated to avoid confusion between departments, but it does not have legal boundaries, does not collect taxes, and does not have legal basis in the Idaho Code. A subscription department may charge for their services, however.

**Waiver of Conditions:** Any alternative design or deviation from this ordinance.

**Water Dependent:** A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

5 **Water Surface Elevation:** The height, in relation to the national geodetic vertical datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Watercourse:** A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

10 **Welding Shop:** An industrial establishment specializing in the fabrication of metals by means of heating and fusion.

15 **Wetlands:** Those areas that are within the definition of wetlands as defined by the Environmental Protection Agency and within the jurisdiction of the U.S. Army Corps of Engineers and may include areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include saturated swamps, marshes, bogs, and similar areas.

20 **Wetland, Riparian Functions & Values:** The recognized wetland and riparian functions and values include water quality protection and improvement, habitat for fisheries and wildlife, nutrient retention & removal, channel stability, food chain support, flood storage & desynchronization, groundwater recharge & discharge, active & passive recreation, aesthetics, and cultural resources.

**Wholesaling, Distribution and Storage:** Storage and distribution facilities not including retail sales having five (5) or fewer trucks at any one time.

25 **Wholesaling, Distribution, and Storage; Small Scale:** Wholesaling, distribution, and storage having a maximum gross floor area of five thousand (5,000) square feet and using a maximum of two (2) commercial vehicles.

**Wildfire:** An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

30 **Wildland:** An area in which development is essentially nonexistent, except for roads, railroads, power lines and similar facilities.

**Wildland-Urban Interface Area (WUI):** A geographical area where structures and other human development meet or intermingle with Wildland or vegetative fuels.

35 **Winery:** An establishment for the manufacture or bottling of wine. A winery may include, but is not limited to, the following: a tasting room, barrel rooms, bottling rooms, tank rooms, laboratories, sale of wine, processing structure, and offices.

**Wood Processing Plant:** A site, equipment, and buildings necessary to convert wood into chips or fibers, or fibers into byproducts, or to extract byproducts from wood fibers.

40 **Woodworking Shop:** A building or structure used for the purpose of performing shop and/or assembly work in relation to the production of kitchen cabinets, bathroom cabinets, storage units, closet units, custom furniture, or any product made from wood, and the like, and may include indoor storage or wood and other materials. The retail sale of items produced on the site and items accessory to and incidental to the Woodworking Shop shall also be permitted.

**Yard, Front:** An area extending across the full width of the property and lying between the front property line and the nearest line of a principal structure.



**Yard, Rear:** An area extending across the full width of the property and lying between the rear property line and the nearest line of the principal structure.

**Yard, Required:** An area that extends along a property line to a depth or width specified in the setback regulations for the district in which the property is located.

5     **Yard, Side:** An area extending from the front yard to the rear yard between the side property line and the nearest line of the principal structure.

**Zoning:** A map and ordinance which divides a city or county into land use "zones" and specifies the types of land uses, setbacks, lot sizes and size restriction for buildings within that zone.

10     **Zoning (Development) Ordinance:** An ordinance that gives some direction on the types of development that may occur in the county, placement of such development, and allows for the imposition of certain conditions of the development to assure it will not negatively impact the surrounding property owners. Signing standards have been adopted as part of the zoning (development) ordinance to place esthetic and safety standards upon signs being placed upon private property and in the public right-of-way.

15

## Chapter 2 Base District Regulation

- 5    **Article A     Zoning Base Districts**
  - 2A-1   Districts Established, Purposes, and Restrictions
  - 2A-2   Official Zoning Map; Incorporation by Reference
  - 2A-3   Schedule of District Use Regulations
  - 2A-4   Schedule of Building Height and Lot Area Regulations
- 10   **Article B     Nonconforming Property, Use, or Structure**
  - 2B-1   Purpose
  - 2B-2   Applicability
  - 2B-3   Nonconforming Under Permit Authority
  - 2B-4   Continuance of Non-use
  - 15    2B-5   Expansion of Nonconforming Use
  - 2B-6   Violations

### **Article A: Zoning Base Districts**

#### **2A-1: DISTRICTS ESTABLISHED, PURPOSES AND RESTRICTIONS:**

- 20        The following zoning districts are hereby established. For the interpretation of this title, the zoning districts have been formulated to realize the general purposes as set forth in this title. In addition, the specific purpose of each zoning district shall be as follows:
- 25        **A**    Agricultural: To maximize opportunities for agricultural activities by preserving land for the purposes of cultivating the soil and raising livestock. Minimum lot size of forty (40) contiguous acres shall be required for all non-residential divisions, all of which must be under single ownership to ensure protection of irrigation and surface water drainage systems and the continued agricultural use of the land. Land in the agricultural district may be divided for residential use in the following manner:
  - 30            i)    If divided pursuant to Chapter 4-B as a one-time division, one dwelling unit and one accessory dwelling unit shall be permitted for each parcel of land in a single ownership for each of the two parcels, unless otherwise prohibited by this ordinance.
  - ii)   Minor, Full, and Large Scale Subdivisions shall be permitted in the agricultural district if created in compliance with Chapter 6 of this Ordinance.
- 35        **RR** Rural Residential: To provide for the transition of agricultural land no longer used for extensive agricultural purposes into residential areas, while preserving agricultural uses compatible with residential development. Minimum lot size in accordance with 2A-4 to ensure protection of irrigation and surface water drainage systems. However, any parcel of record or on file in the office of the Oneida County Recorder on August 1, 2022, or any un-platted contiguous parcels of land held in one ownership and of record on August 1, 40        2022 shall not be subject to the minimum lot area restriction of 2A-4, but shall still otherwise comply with the restrictions of 4A-3(A).
- R**    **Residential:** For the purposes of this ordinance, Residential land is categorized as follows:
  - R1** Residential: To provide lands for the development of single-family dwellings, in areas that can be served by individual well and septic systems as approved by the health



department. One acre minimum lot size requirement. Minimum lot size in accordance with 2A-4 to ensure protection of irrigation and surface water drainage systems.

**R2** Residential: To provide lands for the development of single-family dwellings, in areas that can be served by central water and sewer. Minimum lot size in accordance with 2A-4 to ensure protection of irrigation and surface water drainage systems.

**C** Commercial: To provide an area for business uses which provide office, retail, services, and travel needs.

**I** Industrial: To provide an area for uses of a less desirable nature and which are needed to serve the needs of a community but in conflict with the purpose of agricultural, residential and commercial uses.

**P** Public: To provide for public development such as golf courses, parks, recreation facilities, greenways, schools, and public service facilities such as government offices.

**PUD** Planned Unit Development: This designation, following any zoning designation noted on the official zoning map of the county (i.e., R1-PUD), indicates that the development was approved by the county as a planned unit development. Density transfers may have been permitted as a part of the overall development.

**DA** Development Agreement: This designation, following any zoning designation noted on the official zoning map of the county (i.e., R1-DA), indicates that the zoning was approved by the county with a development agreement. Specific provisions, as may have been incorporated within the development agreement, are applicable to development within this zoning designation.

## **2A-2: OFFICIAL ZONING MAP; INCORPORATION BY REFERENCE:**

**A.** Map Adopted: The districts established in section 2A-1 of this chapter and shown on the official zoning map, as now existing or as may hereafter be amended, together with all explanatory material thereon, are hereby incorporated into this title as if set forth in full within this title.

**B.** Boundaries Of Districts: Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the official zoning map, the following shall apply:

1. Where district boundaries are indicated as approximately following the centerline of street lines, highway right of way lines, streams, lakes or other bodies of water, the centerline shall be construed to be such boundary;

2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;

3. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right of way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the official zoning map; and

4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

**2A-3: SCHEDULE OF DISTRICT USE REGULATIONS:**

District regulations shall be as set forth in the official schedule of district regulations, in the performance standards in chapter 3 of this title, and as otherwise provided within this code. The official schedule of district regulations is divided into five (5) land use groups: agricultural, residential, commercial, industrial, and public/semipublic. To determine in which district a specific use is allowed:

- A. Find the use in one of the land use groups;
- B. Read across the chart until either "P" or "C" appears in one of the columns; and
- C. If "P" appears, the use is an allowed use; if "C" appears, the use is only allowed upon the issuance of a conditional use permit; if no letter appears the use is prohibited.

If a proposed use is not specifically listed in the chart below, then the use is prohibited. When several combined land uses exist, or are proposed, the most intensive land use shall be considered as the primary activity.

**OFFICIAL SCHEDULE OF DISTRICT REGULATIONS**

(P – Permitted Use / C – Conditional Use / No P Or C – Prohibited Use)

| <i>Land Uses</i>     |                                      | <i>Districts</i> |           |          |          |          |          |
|----------------------|--------------------------------------|------------------|-----------|----------|----------|----------|----------|
|                      |                                      | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
| <b>Agricultural:</b> |                                      |                  |           |          |          |          |          |
|                      | Agricultural and forest              | P                | P         | C        |          |          | P        |
|                      | Agricultural Building                | P                | P         |          | C        |          |          |
|                      | Dairy farm                           | P                | C         |          |          |          |          |
|                      | Animal Feeding Operation (Small)     | C                | C         |          |          |          |          |
|                      | Animal Feeding Operation (Large)     | C                | C         |          |          |          |          |
|                      | Farm                                 | P                | P         | P        |          |          |          |
|                      | Farmers' markets (outdoor)           | P                | P         | C        | C        |          | P        |
|                      | Horticulture (general)               | P                | P         | P        | P        |          | P        |
|                      | Horticulture (limited)               | P                | P         | P        | P        | P        | P        |
|                      | Livestock Confinement Facility       | C                | C         |          |          |          |          |
|                      | Roadside stand (temporary structure) | P                | P         | P        | P        |          | P        |
|                      | Truck Gardening                      | P                | P         | P        | P        |          | P        |
|                      | Turf and/or tree farm                | P                | P         | C        |          |          |          |



|                     | <i>Land Uses</i>                                    | <i>Districts</i> |           |          |          |          |          |
|---------------------|-----------------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|                     |                                                     | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|                     | Vineyard                                            | P                | P         | C        |          |          |          |
| <b>Residential:</b> |                                                     |                  |           |          |          |          |          |
|                     | Accessory Structure                                 | P                | P         | P        | C        | C        | C        |
|                     | Accessory dwelling unit                             | C                | C         | C        | C        | C        | C        |
|                     | Boarding House                                      |                  |           | C        | C        |          |          |
|                     | Group Home (8 individuals or less)                  |                  | P         | P        |          |          |          |
|                     | Group Home (9 individuals or more)                  |                  | C         | C        | C        |          |          |
|                     | Home Office                                         | P                | P         | P        | C        | C        | C        |
|                     | Home occupation                                     | C                | P         | P        | C        | C        | C        |
|                     | Manufactured/Mobile Home Park                       |                  | C         | C        | C        |          |          |
|                     | Multiple-family dwelling                            |                  | C         | C        |          |          |          |
|                     | Single-family attached dwelling (i.e. townhouse)    |                  | C         | C        |          |          |          |
|                     | Single-family dwelling (existing)                   | P                | P         | P        | P        | P        | P        |
|                     | Single-family dwelling (new)                        | P                | P         | P        |          |          |          |
|                     | Two-family dwelling                                 | C                | C         | C        |          |          |          |
| <b>Commercial:</b>  |                                                     |                  |           |          |          |          |          |
|                     | Adult business                                      |                  |           |          | C        |          |          |
|                     | Aircraft Landing Field                              | C                | C         | C        | C        | C        | C        |
|                     | Airport                                             | C                | C         | C        | C        | C        | C        |
|                     | Amusement or Recreation Facility                    |                  |           |          | P        |          | P        |
|                     | Animal Clinic, Animal Hospital or Veterinary Office | C                | C         |          | P        | C        |          |
|                     | Artist studios                                      |                  | P         | C        | P        |          | P        |

|  | <i>Land Uses</i>                                                     | <i>Districts</i> |           |          |          |          |          |
|--|----------------------------------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                                                      | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Arts and crafts shows                                                |                  |           |          | P        | C        | P        |
|  | Auction establishment                                                | C                | C         |          | P        | C        |          |
|  | Automotive gas station or fuel islands                               |                  |           |          | P        | P        |          |
|  | Automotive gas station/service shop                                  |                  |           |          | P        | P        |          |
|  | Automotive, mobile home, travel trailer, and/or farm implement sales | C                |           |          | P        | C        |          |
|  | Automotive parts and accessories sales                               | C                |           |          | P        | P        |          |
|  | Automobile and Farm Equipment Major Repair                           | C                |           |          | P        | P        |          |
|  | Automobile Sales and Service                                         | C                |           |          | P        | C        |          |
|  | Automobile, Wrecking Yard                                            |                  |           |          | C        | C        |          |
|  | Bakery plant (commercial)                                            |                  |           |          | P        | C        |          |
|  | Banks/financial institutions (no drive-up service)                   |                  |           |          | P        |          |          |
|  | Banks/financial institutions (with drive-up service)                 |                  |           |          | P        |          |          |
|  | Bar/Lounge/Tavern                                                    |                  |           |          | P        |          |          |
|  | Bar, wine/tasting room                                               |                  |           |          | P        |          |          |
|  | Beauty/barber shop                                                   |                  |           | C        | P        |          |          |
|  | Bed and breakfast facility                                           | C                | C         | C        | C        |          |          |
|  | Building supply outlet                                               |                  |           |          | P        | P        |          |
|  | Butcher Shop                                                         | C                |           |          | P        | P        |          |
|  | Cabinet shop                                                         |                  |           |          | C        | P        |          |
|  | Car Wash                                                             |                  |           |          | P        |          |          |
|  | Catering service                                                     |                  |           | C        | P        |          | P        |



|  | <i>Land Uses</i>                          | <i>Districts</i> |           |          |          |          |          |
|--|-------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                           | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Cemetery                                  | C                | C         | C        | C        |          | C        |
|  | Christmas tree sales                      |                  | P         |          | C        |          | P        |
|  | Church                                    | C                | C         | C        | C        | C        | P        |
|  | Circuses and carnivals                    | C                | C         |          | P        |          | P        |
|  | Club or lodge                             |                  | C         |          | P        |          | C        |
|  | Coffee roasting facility                  |                  | C         |          | P        | P        |          |
|  | Communication facilities                  | C                | C         | C        | P        | C        | C        |
|  | Contractor's yard and/or shop             |                  |           |          | C        | P        |          |
|  | Convenience store with fuel service       |                  |           |          | P        | C        |          |
|  | Convenience store with no fuel service    |                  |           |          | P        | C        |          |
|  | Daycare Facility                          |                  |           |          |          |          |          |
|  | Family                                    | P                | P         | P        | P        | P        | C        |
|  | Group                                     |                  | C         | C        | P        |          | C        |
|  | Daycare Center                            |                  |           | C        | P        |          |          |
|  | Detention center                          |                  |           |          | C        | C        | C        |
|  | Drive-in theater                          |                  |           |          | C        |          |          |
|  | Drugstore or Pharmacy                     |                  |           |          | P        |          | C        |
|  | Electronic sales, service, or repair shop |                  |           |          | P        | C        | P        |
|  | Emergency healthcare/Urgent care          |                  |           |          | P        |          | P        |
|  | Emergency services                        |                  | C         | C        | P        | C        | P        |
|  | Equipment rental and sales yard           |                  |           |          | P        | C        |          |
|  | Flex space                                |                  |           |          | P        | P        |          |
|  | Food and beverage sales                   |                  |           |          | P        |          |          |

|  | <i>Land Uses</i>                                     | <i>Districts</i> |           |          |          |          |          |
|--|------------------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                                      | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Gasoline, Diesel, or Alternative Fuel Sales Facility |                  |           |          | C        | C        |          |
|  | Hardware store                                       |                  | C         |          | P        | C        |          |
|  | Health clubs, spas, weight reduction salons          |                  |           |          | P        |          |          |
|  | Heliports                                            |                  |           |          | C        | C        | C        |
|  | Hospital                                             |                  |           |          | P        |          | C        |
|  | Hotel                                                |                  |           |          | P        |          |          |
|  | Kennel                                               |                  | C         | C        | C        | C        | C        |
|  | Laboratory                                           |                  |           |          | C        | C        | P        |
|  | Laundromat                                           |                  |           |          | P        |          |          |
|  | Laundry (with drive-up service)                      |                  |           |          | P        |          |          |
|  | Laundry (with no drive-up service)                   |                  |           |          | P        |          |          |
|  | Live entertainment events                            | C                | C         | C        | P        |          | C        |
|  | Live entertainment events, county sponsored          | P                | P         | C        | P        |          | P        |
|  | Microbrewery                                         |                  |           |          | P        | C        |          |
|  | Mobile office                                        |                  |           |          | C        | C        | C        |
|  | Mortuary                                             |                  |           |          | P        |          |          |
|  | Motel                                                |                  |           |          | P        |          |          |
|  | Nonprofit rehabilitation center                      |                  | C         |          | C        |          |          |
|  | Nursery (Retail)                                     | C                | C         | C        | P        | C        |          |
|  | Nursery (Wholesale)                                  | P                | C         | C        | P        | C        |          |
|  | Nursing/convalescent home                            |                  | C         | C        | P        |          |          |
|  | Office, business and professional                    |                  |           |          | P        | P        | P        |
|  | Office, medical and dental                           |                  |           |          | P        |          | P        |



|  | <i>Land Uses</i>                                                       | <i>Districts</i> |           |          |          |          |          |
|--|------------------------------------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                                                        | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Parking lot, parking garage                                            |                  |           |          | P        |          | P        |
|  | Parking lot, parking garage, commercial                                |                  |           |          | P        |          | C        |
|  | Personal improvement                                                   |                  |           | C        | P        |          |          |
|  | Personal services                                                      |                  |           | C        | P        |          |          |
|  | Personal wireless facilities (enclosed building, height – 35' or less) | P                | C         | C        | P        | P        | P        |
|  | Personal wireless facilities (enclosed building, height – over 35')    | C                | C         | C        | C        | C        | C        |
|  | Personal wireless facilities (height – 35' or less)                    | C                | C         |          |          |          | P        |
|  | Personal wireless facilities (height – 36' – 50')                      | C                | C         | C        | C        | C        | C        |
|  | Personal wireless facilities (height over 50')                         | C                | C         | C        | C        | C        | C        |
|  | Photographic studio                                                    |                  |           | C        | P        |          |          |
|  | Printing and/or blueprinting                                           |                  |           |          | P        |          |          |
|  | Racetrack                                                              |                  |           |          | C        | C        | C        |
|  | Recreational Vehicle Park                                              |                  | C         |          | C        |          | C        |
|  | Restaurant (drive-in)                                                  |                  |           |          | P        |          |          |
|  | Restaurant (no drive-through)                                          |                  |           |          | P        | C        |          |
|  | Restaurant (with drive-through)                                        |                  |           |          | P        |          |          |
|  | Retail sales (general)                                                 | C                | C         |          | P        |          |          |
|  | Retail sales (limited)                                                 | C                | C         |          | P        |          |          |
|  | Retail sales (pharmacies and medical)                                  |                  |           |          | P        |          |          |
|  | Riding academies/stables, arenas                                       | C                | C         | C        | C        |          | C        |
|  | Shooting Range                                                         | C                | C         |          | C        | C        | C        |
|  | Shopping center                                                        |                  |           |          | P        |          |          |

|  | <i>Land Uses</i>                              | <i>Districts</i> |           |          |          |          |          |
|--|-----------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                               | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Shopping mall                                 |                  |           |          | P        |          |          |
|  | Sign shop, including painting                 |                  |           |          | C        | C        |          |
|  | Slaughterhouse                                | C                |           |          |          |          |          |
|  | Small engine repair (mower, chain saws, etc.) |                  |           |          | P        | P        |          |
|  | Storage (enclosed building)                   | C                | C         |          | P        | C        | P        |
|  | Storage (fenced area)                         | C                |           |          | C        | C        |          |
|  | Subdivision sales office                      |                  |           | P        | P        | P        |          |
|  | Tire shop, including recapping                |                  |           |          | P        | P        |          |
|  | Treatment or Rehabilitation Facility          |                  | C         | C        | C        |          |          |
|  | Truck stop                                    |                  |           |          | C        | C        |          |
|  | Upholstery shop                               |                  |           |          | P        | C        |          |
|  | Vet clinic (animal hospital)                  | C                | C         | C        | P        | C        |          |
|  | Welding shop                                  | C                |           |          | P        | P        |          |
|  | Winery                                        | C                | C         | C        |          |          |          |
|  | Woodworking Shop                              | C                |           |          | C        | P        |          |
|  | <b>Industrial:</b>                            |                  |           |          |          |          |          |
|  | Asphalt batch plant                           |                  |           |          |          | C        |          |
|  | Automotive wrecking yard or salvage           |                  |           |          |          | C        |          |
|  | Beverage bottling plant                       |                  |           |          | C        | C        |          |
|  | Billboard manufacture                         |                  |           |          |          | C        |          |
|  | Cement or clay products manufacturing         |                  |           |          |          | C        |          |
|  | Chemical storage and manufacturing            |                  |           |          |          | C        |          |
|  | Concrete batch plant                          |                  |           |          |          | C        |          |



|  | <i>Land Uses</i>                                 | <i>Districts</i> |           |          |          |          |          |
|--|--------------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                                  | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Dairy products processing                        | C                | C         |          |          | C        |          |
|  | Food processing plant                            |                  |           |          | C        | C        |          |
|  | Fuel yard                                        |                  |           |          |          | C        |          |
|  | Grain storage facility                           | C                | C         |          |          | C        |          |
|  | Ice manufacture plant, cold storage              |                  |           |          | C        | C        |          |
|  | Industry:                                        |                  |           |          |          |          |          |
|  | Custom                                           |                  |           |          | C        | P        |          |
|  | Limited                                          |                  |           |          | C        | P        |          |
|  | Research and development                         |                  |           |          | C        | P        |          |
|  | Junkyard                                         |                  |           |          |          | C        |          |
|  | Lumber Mill, Permanent or Temporary /<br>Sawmill | C                |           |          |          | C        |          |
|  | Lumberyard, retail                               |                  |           |          | C        | C        |          |
|  | Machine shop                                     |                  |           |          | C        | P        |          |
|  | Manufacturing, furniture                         |                  |           |          | C        | P        |          |
|  | Monument works, stone                            |                  |           |          | C        | P        |          |
|  | Oil and gas extraction                           | C                | C         |          |          | C        | C        |
|  | Oil and gas post-extraction                      | C                | C         |          |          | C        | C        |
|  | Petroleum storage                                |                  |           |          | C        | C        |          |
|  | Planing mill                                     | C                | C         |          | C        | C        |          |
|  | Public utility yard                              |                  |           |          | C        | C        | C        |
|  | Railroad yard                                    |                  |           |          | C        | C        |          |
|  | Recycling operation                              |                  |           |          | C        | C        |          |

|  | <i>Land Uses</i>                             | <i>Districts</i> |           |          |          |          |          |
|--|----------------------------------------------|------------------|-----------|----------|----------|----------|----------|
|  |                                              | <i>A</i>         | <i>RR</i> | <i>R</i> | <i>C</i> | <i>I</i> | <i>P</i> |
|  | Research activities                          |                  |           |          | C        | C        |          |
|  | Sand or gravel yard                          | C                | C         |          | C        | C        |          |
|  | Sanitary landfill/Transfer Station           | C                | C         |          |          | C        | C        |
|  | Salvage yard                                 |                  |           |          |          | C        |          |
|  | Truck and equipment repair and sales (heavy) |                  |           |          | C        | P        |          |
|  | Warehousing, wholesaling plant               |                  | C         |          | C        | P        |          |
|  | Wood processing plant                        |                  |           |          | C        | C        |          |
|  | <b>Public/semipublic:</b>                    |                  |           |          |          |          |          |
|  | Airport                                      | C                | C         |          |          | C        | C        |
|  | Campground                                   | C                | C         |          | C        |          | P        |
|  | Correctional Institution                     |                  | C         |          | C        | C        | C        |
|  | Fairgrounds                                  | C                | C         |          |          |          | C        |
|  | Golf course and related services             |                  | C         | C        | C        | C        | C        |
|  | Government building, offices                 |                  |           |          | P        |          | P        |
|  | Library                                      |                  |           |          | P        |          | P        |
|  | Museum                                       |                  |           |          | P        |          | P        |
|  | Park and recreation facilities               |                  | C         | C        | C        |          | C        |
|  | Parking lot, parking garage, government      |                  |           |          | C        |          | P        |
|  | Portable classroom                           |                  | C         | C        | C        | C        | C        |
|  | Public service facilities                    | C                | C         | C        | C        | C        | C        |
|  | School, public or private                    | C                | C         | C        | C        |          | C        |



**2A-4: SCHEDULE OF BUILDING HEIGHT, LOT AREA, AND DENSITY REGULATIONS:**

An approved allowed use shall meet the Height, Lot area, and density regulations such as, but not limited to, setback requirements, lot size, area density, and building heights.

| Zone                 | Maximum Height (Ft.) 1 | Front (Ft.) 4 | Rear (Ft.) 4 | Interior Side (Ft.) 4 5 | Street Side (Ft.) 4 | Minimum Lot Area Per Dwelling Unit (Except for Agricultural Zones, which shall be a minimum lot density, as noted) 8 | Minimum Lot Width (Ft.) |
|----------------------|------------------------|---------------|--------------|-------------------------|---------------------|----------------------------------------------------------------------------------------------------------------------|-------------------------|
| <b>A</b>             | 50'                    | 60'           | 30'          | 30'                     | 60'                 | 40-acres <sup>7,9</sup>                                                                                              | 250'                    |
| <b>RR</b>            | 35'                    | 60'           | 30'          | 20'                     | 40'                 | 5-acres                                                                                                              | 250'                    |
| <b>R1</b>            | 35'                    | 30'           | 15'          | 15'                     | 30'                 | 1-acre <sup>2</sup>                                                                                                  | 100' <sup>3</sup>       |
| <b>R2</b>            | 35'                    | 30'           | 10'          | 10'                     | 20'                 | 10,000-sq.ft.                                                                                                        | 75'                     |
| <b>C<sup>6</sup></b> | 35'                    | 30'           | 30'          | 10'                     | 30'                 | 5,000-sq.ft.                                                                                                         | 75'                     |
| <b>I</b>             | 45'                    | 50'           | 50'          | 30'                     | 50'                 | Varies                                                                                                               | 75'                     |
| <b>P</b>             | 35'                    | 30'           | 30'          | 10'                     | 30'                 | Varies                                                                                                               | N/A                     |

1. Except barns, silos, and windmills.

2. May be reduced if on central water and sewer.

3. May be reduced to a minimum of 75 feet if on central water and sewer.

4. Cornices, canopies, eaves, or other projections that do not increase the volume of the space enclosed by the building and do not project into any required yard more than 2 feet, provided that an unroofed stair and landing together with a railing may project not more than 3 feet into a front yard or 6 feet into the rear.

5. Additional five – foot (5) per story set back shall be required for multi-story structures.

6. Front and Back setbacks can be reduced to 20' and 15', respectively, for lots smaller than 6,500 sq. ft.

7. Not a minimum lot area requirement, but a minimum density requirement for subdivisions pursuant to Section 6-5.

8. Density restriction does not apply to accessory dwelling units, except as otherwise provided in this Ordinance.

9. In the case of a one-time division in accordance with Article 4B, the minimum lot size in Zone A is 5-acres.

## **Article B: Nonconforming Property Use, or Structure:**

### **2B-1 Purpose:**

5 It is the intent of this Ordinance to permit nonconforming uses, structures, and lots to continue until they are removed or altered in such a manner to bring them into conformance. It is further the intent of this Ordinance that nonconforming uses, buildings, and lots shall not be enlarged upon, expanded, or extended in such a manner as to increase their nonconformity, without approval of the Commission.

### **2B-2 Applicability:**

- A. The lawful use of land or structures existing on the date this Ordinance is passed may be continued and will be considered "non-conforming".
- 10 B. A non-conforming structure which conforms with respect to use may be altered or expanded if the alteration, expansion or addition is in conformance with the standards of this Ordinance.
- C. If a non-conforming use is discontinued for a period of twelve (12) consecutive months, further use of the property shall conform to this Ordinance. However, any single family or duplex use lawfully existing on the effective day of this Ordinance shall be hereafter deemed a lawful use.
- 15 D. A non-conforming use, if changed to a conforming use, may not thereafter be changed back to a non-conforming use.
- E. Normal repairs and alterations may be made to a non-conforming structure. No existing non-conforming structure designed, arranged, intended for or devoted to, a use not allowed under this Ordinance shall be enlarged, extended, reconstructed, structurally altered or moved unless such use is changed to a use allowed under the regulations specified by this Ordinance; and provided, further, that nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof.
- 20

### **2B-3 Nonconforming Under Permit Authority:**

25 Nothing contained in this regulation shall require any change in the plans, construction, alteration, or designated use of a structure upon which lawful construction has commenced or a permit has been obtained prior to the effective date of this Ordinance. If the designated use will be non-conforming, the construction for such use shall be commenced within six (6) months of permit issuance and it shall be in operation within two (2) years from the effective date of this Ordinance, otherwise, future use of the property or improvement shall be in conformance with this Ordinance.

### **2B-4 Continuance of Non-Use:**

30 If the non-use continues for a period of twelve (12) consecutive months, the county shall, by written request, require that the owner declare his intention with respect to the continued non-use of the improvements in writing within twenty-eight (28) days of receipt of the request. If the owner elects to continue the non-use, he shall notify the county in writing of his intention and shall post the property with notice of his intent to continue the non-use of the improvements. He shall also publish notice of his intent to continue the non-use in a newspaper of general circulation in the county where the property is located. If the property owner complies with the requirements of this subsection, his right to use such improvements in the future for their designed purpose shall continue, notwithstanding any change in the zoning of the property.

40 The property owner may voluntarily elect to withdraw the use by filing with the clerk of the county an affidavit of withdrawn use. If the property is redesigned for a different use, the property owner shall be deemed to have abandoned any grandfather right to the prior use of the property.

For purposes of this Section "designed purpose" means the use for which the improvements were originally intended, designed, and approved pursuant to any applicable planning and zoning ordinances.



The provisions of this Section shall not be construed to prohibit a county from passing or enforcing any other law or ordinance for the protection of the public health, safety, and welfare.

**2B-5 Expansion or Extension of Nonconforming Use**

A. Process

- 5 1. The applicant shall submit a conditional use permit application and fees, as set forth in Chapter 7, Article A, to the Administrator on forms provided by the Planning and Zoning Department.
2. The Planning and Zoning Commission shall conduct a public hearing and shall apply the standard listed in Subsection B of this Section and the findings listed in Subsection C of this Section to review the expansion or extension of a nonconforming use or structure.

10 B. Standard: The use or structure is nonconforming.

C. Required Findings: In order to grant an expansion or extension of a nonconforming use or structure, the Commission shall make the following findings:

1. Allowing the expansion or extension of the nonconforming use or structure shall not conflict with the applicable comprehensive plan; and
- 15 2. The expansion or extension of the nonconforming use or structure shall not be detrimental to the public health, safety, and welfare.

**2B-6 Violations:**

Properties, uses, or structures that were in violation of previous land use regulations and that remain a violation under this ordinance shall be considered continuing violations.

20

## Chapter 3 Overlay Districts

- Section 1      Overlay Districts Established
- 5    Section 2      Allowed Uses
- Section 3      Multiple Overlay Districts
  - Article A      Wildland-Urban Interface Overlay District
  - Article B      Flood Damage Prevention Overlay District
  - Article C      Planned Unit Development Overlay District
  - 10    Article D      Airport Overlay District

### 3-1 Overlay Districts Established:

For the purpose of this ordinance, the unincorporated territory of Oneida County, Idaho, has the following categories of overlay districts:

- 15    A. Wildland-Urban Interface Overlay District
- B. Flood Damage Overlay District
- C. Planned Unit Development Overlay District
- D. Airport Overlay District

### 3-2 Allowed Uses:

- 20    A use that is allowed in the underlying base district may be prohibited subject to the regulations of an overlay district.

### 3-3 Multiple Overlay Districts:

- 25    Where a property is subject to the regulations of more than one overlay district as outlined in this chapter, the requirements of an overlay district shall not be waived or modified unless specifically authorized through procedures set forth in said overlay district. When a conflict exists between the regulations of an overlay district(s), the most restrictive shall apply.



## Article A: Wildland-Urban Interface Overlay District

3A-1 Purpose

3A-2 Applicability

3A-3 Standards

### 5 3A-1 Purpose:

This section will establish guidelines to mitigate the risk to life and property from the spread of fire from wildland onto developed land, from developed land onto wildland, and between adjacent structures.

### 3A-2 Applicability:

10 This Section shall apply to all Subdivisions, Conditional Use Permit applications, Planned Unit Developments and structures 200 square feet or greater, submitted or constructed that are located in areas of the county outside of the service area of the Malad and Holbrook Fire Departments and those areas within the service area of the fire departments that have a risk level over 40 as shown on the Oneida County Risk Map.

15 A. This Section will apply to additions or alterations made to any building or structure if the footprint of the structure is expanded by 50% or more.

B. All Subdivision, Planned Unit Developments and Conditional Use Permit applications shall include mitigation plans as provided in this Section. This Section shall supplement all other Sections of the Oneida County Development Code, and where at variance with other laws, regulations, sections, or resolutions, the more restrictive requirements shall apply.

20 C. All outdoor fires within unincorporated Oneida County shall be regulated pursuant to 3A-3(A)(7).

### 3A-3 Standards:

#### A. Fire Protection Requirements:

25 1) **Scope.** The provisions of this chapter establish general requirements for new buildings, structures and premises located within the un-incorporated areas which are subject to the jurisdiction of Oneida County. These requirements are recommended for existing structures and developments.

2) **Objective.** The objective of this chapter is to establish minimum requirements to mitigate the risk to life and property from wildland fire exposures, exposures from adjacent structures and to mitigate structure fires from spreading to adjacent wildland fuels.

30 3) **Applicability.** All new buildings, structures and premises located within the un-incorporated areas which are subject to the jurisdiction of Oneida County.

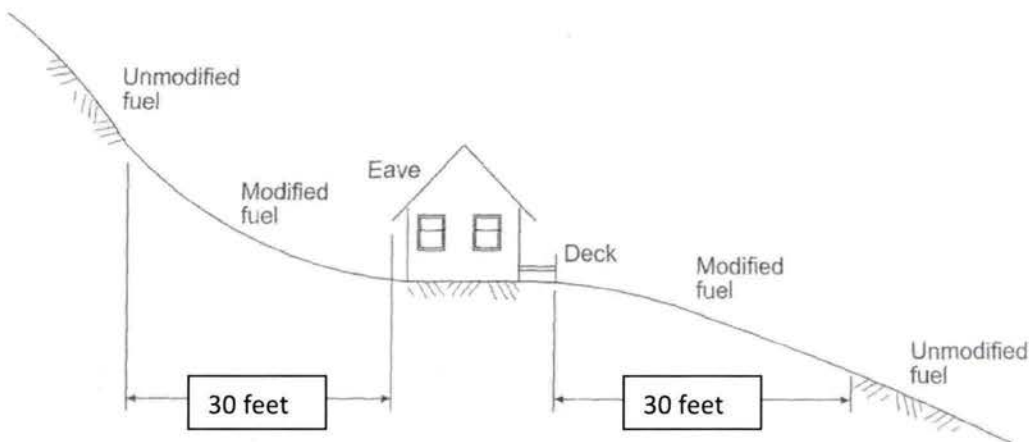
#### 4) Defensible Space.

35 a) **Objective.** Provisions of this Section are intended to modify the fuel load in areas adjacent to structures to create a defensible space around those structures. Distances may be increased due to site-specific analysis based on local conditions and the fire protection plan.

40 b) **Building Permits.** Upon issuance of a building permit for home or out-building construction, the Planning and Zoning Administrator will advise the applicant on any requirements to mitigate fuels in accordance with this ordinance. At the completion of the backfilling of the foundation, the applicant must inform the Planning and Zoning Administrator and request a WUI inspection. Failure to do so shall authorize the Planning and Zoning Administrator to declare the permit revoked and shall not issue another permit until said violation is corrected. Violations shall follow procedures set forth in the current Building Permit Ordinance and this Ordinance.

- c) **Fuel modification.** In order to qualify as a conforming defensible space for the purpose of structures on a property, fuel modification shall not be less than 30 feet or to the property line if less than 30 feet. Figure 3A-1 demonstrates the application of this subsection.
- d) **Responsibility.** Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing non-fire-resistant vegetation on the property owned, leased or controlled by said person.
- e) **Trees.** Trees are allowed within the defensible space, provided the horizontal distance between crowns of adjacent trees, and crowns of trees and structures, overhead electrical facilities or unmodified fuel is not less than 10 feet. Dead wood and litter shall be regularly removed from trees.
- f) **Landscaping.** Where ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants are used as ground cover, they are allowed to be within the designated defensible space, provided they do not form a means of transmitting fire from the native growth to any structure.

FIGURE 3A-1



#### 5) Maintenance of Defensible Space.

- a) **General.** Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for maintaining non-fire-resistant vegetation on the property owned, leased or controlled by said person.
- b) **Modified Area.** Non-fire-resistant vegetation or growth shall be kept clear of buildings or structures, in accordance with Section 4 Defensible Fence, in such a manner as to provide a clear area for fire suppression operations.
- c) **Responsibility.** Persons owning, leasing, controlling, operating or maintaining buildings or structures are responsible for maintenance of defensible spaces to the standards set forth in this ordinance.
- d) **Trees.** Tree crowns extending to within 30 feet of any structure shall be pruned to maintain a minimum horizontal clearance of 15 feet. Tree crowns within the defensible space shall be pruned to remove limbs located less than 18 feet or 1/3 the height of the tree above the ground surface adjacent to the trees. Portions of tree crowns that extend within 18 feet of the outlet of a chimney shall be pruned to maintain a minimum horizontal clearance of 18 feet.



6) **Vegetation Control.**

- a) **Clearance of brush or vegetation growth from roadways.** The Fire Chief, Sheriff or authority having jurisdiction is authorized to require areas within 10 feet on each side of fire apparatus access roads to be cleared of non-fire-resistant vegetation growth.

7) **Outdoor fires.**

- a) **Open Burning Requirements:** Unless otherwise prohibited by law, open burning may be done outside a recreational fire upon compliance with all of the following:

i. **Fire Extinguishing Equipment:** An adequate water supply or other appropriate fire extinguishing equipment, in working condition, shall be on hand and available for use at the site of the burning.

ii. **Attendance:** Any open burning shall be constantly attended by a competent person knowledgeable in the use of fire extinguishing equipment required by this Section. An attendant shall supervise any open burning until such fire has been extinguished.

iii. **Legal Right to Burn:** The person burning material shall have the legal right, by ownership, lease or written permission for use, to conduct the burn on the parcel of land being utilized.

iv. **Notification:** Before engaging in any open burning as provided under this section, the individual responsible for and/or supervising the burning must first contact the Oneida County Sheriffs Office and report to them when, what, and where the burning is to occur.

- b) **Recreational Fires:** Recreational fires shall be in accordance with this Section:

i. **Fire Extinguishing Equipment:** An adequate water supply or other appropriate fire extinguishing equipment, in working condition, shall be on hand and available for use at the site of the recreational fire.

ii. **Attendance:** Recreational fires shall be constantly attended by a competent person knowledgeable in the use of fire extinguishing equipment required by this Section. An attendant shall supervise a recreational fire until such fire has been extinguished.

iii. **Discontinuance:** If such fires are determined by the Oneida County Sheriff's Office or the Oneida County Fire department to constitute a hazardous condition, then the recreational fire shall be immediately discontinued.

- c) **Responsibility of Person Conducting Burn:** It is the responsibility of the person supervising any open burn or recreational fire to keep the fire under control. An open burn or recreational fire shall not be started if conditions exist immediately prior to beginning the burn where smoke, odor or heat can enter or damage neighboring structures or create a traffic hazard. If such conditions do not exist at the start of the burn, but later develop during the burn, the person responsible for the burn has the duty to immediately bring the fire under control and extinguish the fire and further shall keep the fire extinguished until such time as conditions permit the burn to continue.

- d) **Authority to Declare Moratorium:** The fire chief, and the County Sheriff for any area not within a fire district, may declare a moratorium on burning, which moratorium may extend for such period of time as the fire chief or the Sheriff believe is necessary due to adverse conditions which may cause increased hazards for fires.

e) **Other Federal and State Laws:** This ordinance does not presume to, nor does it, allow any form of burning otherwise prohibited by State or Federal laws, rules, and regulations. It is the responsibility of any person conducting any form of burning to be informed as to the laws, rules, and regulations of the State and Federal governments.

f) **Civil Penalties:** In addition to the criminal penalties as set forth by this ordinance, any person violating this Subsection 7, or who does not maintain control of a fire for which that person is responsible, shall be liable for the costs of suppressing any resulting fire. Such costs shall include the costs of any fire department responding to that particular fire, as well as a reasonable charge for usage of equipment, materials and supplies in suppressing said fire.

#### B. All Structures:

1) **Declaration.** All unincorporated areas of Oneida County, which are subject to the jurisdiction of the county, are considered to be part of the Wildland-Urban Interface area.

2) **General.** In order to provide protection from wildfire in the WUI areas, appropriate access for emergency vehicles will greatly enhance the ability of local agencies to protect life and property. The objective of this Section is to establish minimum standards for emergency vehicle access to buildings and accessory structures located in the WUI area. This Section should be used in conjunction with local fire authorities to safeguard homes and developments in Oneida County.

3) **Applicability.** All new structures of 200 square feet or greater or alterations made to any building or structure which would increase the footprint of the structure by more than 50% shall comply with Subsections a & b below except as provided in 3A-3(C) of this Section.

a) **Access.** Newly constructed driveways shall be constructed to a minimum width of twelve feet (12').

**Exceptions:** Where a width of 12 foot is not possible due to terrain, the Fire Chief has the authority to waive the 12-foot requirement for the applicable portion of the driveway. In doing so, Fire Chief will furnish written approval of such to the Planning & Zoning Department listing the applicants name, address, the reason for the waiver and the GPS coordinates of the start and end points of all waived Sections.

b) **County Right-of-Way Access.** To utilize the right-of-way approaches in Oneida County shall require approval through the Oneida County Road and Bridge Department. Applicants will complete the "Application to Use Right-of-Way Approaches" form and submit it to the Road and Bridge Department along with applicable fees.

c) **Address markers.** All buildings shall have a reflective permanently posted address, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located. All address markers and signs shall comply with Chapter 4, Article H, Street Naming and Address Numbering.

#### C. Subdivisions, Planned Unit Developments, and Conditional Use Permits:

1) **General.** The objective of this section is to establish minimum standards for emergency vehicle access and water supply for buildings and structures located in the WUI area. This ordinance should be used in cooperation with local fire authorities to safeguard homes and developments in Oneida County.

2) **Access.**

a) **Access.** Access to a development or subdivision shall meet the following requirements:



- 5           i.     **Safety.** All road systems shall provide for unobstructed traffic circulation for residents, firefighters and fire equipment in case of an emergency. This requires wide, well-constructed roads with sufficient turnarounds to prevent getting stuck off the road, and to allow simultaneous access by emergency vehicles and escape by local residents. Turns must be designed, and hill grades established allowing for truck traffic.
- 10           ii.    **Key Box/KnoxBox.** Where emergency vehicle access is restricted because of secured access roads or driveways or where immediate access is necessary for lifesaving or fire-fighting purposes, the Fire Chief or Sheriff may require a key box or KnoxBox to be installed in an accessible location. The key box or KnoxBox shall be of a type approved by the Fire Chief or Sheriff and shall contain keys to gain necessary access as required. Combination locks are acceptable when appropriate codes are furnished to the local fire department and Oneida County Dispatch. Should a key box or KnoxBox not be installed the fire department or Sheriff may take such actions as necessary to access the property. The requirements of this subsection shall not apply if the access road is equipped with a knock-down gate.
- 15           b) **Driveways.** Driveways shall be required when any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road. Driveways shall have a minimum unobstructed width of 12 feet and a minimum unobstructed height of 13 feet 6 inches. Driveways in excess of 150 feet in length shall have turnarounds. Driveways in excess of 200 feet in length and less than 20 feet in width shall have turnouts in addition to turnarounds.
- 20               (i) Driveway turnarounds shall have inside turning radii of not less than 30 feet and outside turning radii of not less than 45 feet. Driveways that connect with a road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radii requirements for driveway turnarounds.
- 25               (ii) Driveway turnouts shall be built at least 10 feet wide and 30 feet long. Driveway turnouts shall be located as required by the Fire Chief.
- 30           c) **Fire Apparatus Access Road.** New subdivisions, planned unit developments, and properties associated with conditional use permits shall have fire apparatus access roads shall be constructed in conformance with the Highway Standards and Road Development Procedures for Oneida County. Dead-end roads in excess of 150 feet in length shall be designed to terminate at a cul-de-sac designed in conformance with the Highway Standards and Road Development Procedures for Oneida County.
- 35           d) **Marking of roads.** Approved signs in accordance with Chapter 4, Article H, shall be required and maintained for access roads and driveways to identify such roads.
- e) **Marking of fire protection equipment.** Fire protection equipment and fire hydrants shall be clearly identified in a manner approved by the Fire Chief or Sheriff.
- 40           3) **Water.**
- a) **Water Supply** A water supply shall be required for the use of the fire protection service having jurisdictional authority for fire-fighting purposes in accordance with the jurisdiction's fire mitigation plan and this section.
- 45           4) **Fire Mitigation Plan.**
- a) **Requirements.** A Fire Mitigation Plan shall be prepared, approved, and implemented.
1. The Fire Mitigation Plan shall be based on a site-specific wildfire risk assessment that includes considerations of the following:

- i) location,
- ii) topography,
- iii) slope,
- iv) flammable vegetation,
- v) climatic conditions,
- vi) fire history,
- vii) response time from the nearest fire department,
- viii) water sources and water source,
- ix) storage capacity.

2. The plan shall address the following:

- i) access,
- ii) building ignition and fire resistance factors,
- iii) fire protection systems,
- iv) fire protection equipment,
- v) defensible space.
- vi) evacuation routes, and
- vii) vegetation management.

3. The cost of preparing the Fire Mitigation Plan and review shall be the responsibility of the applicant.

**5) Protection of Pumps and Water Storage Facilities.**

- a) **Objective.** The intent of this Section is to increase the reliability of water storage and pumping facilities and to protect such systems against loss from intrusion by fire.
- b) **Fuel modification area.** Water storage and pumping facilities shall be provided with a defensible space of not less than 30 feet clear of non-fire-resistive vegetation or growth around and adjacent to such facilities.
  - i. Persons owning, controlling, operating or maintaining water storage and pumping systems requiring this defensible space are responsible for clearing and removing non-fire-resistive vegetation and maintaining the defensible space on the property owned, leased or controlled by said person.
  - ii. Portions of trees that extend to within 30 feet of combustible portions of water storage and pumping facilities shall be removed.



## **Article B: Flood Damage Prevention Overlay District**

- 3B-1 Statutory Authority
- 3B-2 Findings of Fact
- 3B-3 Statement of Purpose
- 5 3B-4 Objectives and Methods of Reducing Flood Loss
- 3B-5 Definitions
- 3B-6 General Provisions
- 3B-7 Administration
- 3B-8 Provisions for Flood Hazard Reduction
- 10 3B-9 Legal Status Provisions

### **3B-1 Statutory Authority**

- The Legislature of the State of Idaho, pursuant to Idaho Code § 46-1020, 46-1023, and 46-1024, authorizes local governments to adopt floodplain management ordinances that identify floodplains and minimum floodplain development standards to minimize flood hazards and protect human life, health, and property.

### **3B-2 Findings of Fact**

1. The flood hazard areas of the County are subject to periodic inundation that results in:
  - a. loss of life and property;
  - b. health and safety hazards;
  - 20 c. disruption of commerce and governmental services;
  - d. extraordinary public expenditures for flood relief and protection; and
  - e. impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 25 2. These flood losses may be caused by development in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
3. Local government units have the primary responsibility for planning, adopting, and enforcing land use regulations to accomplish proper floodplain management.

### **3B-3 Statement of Purpose**

- The purpose of this ordinance is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life, health, and property;
  2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
  - 35 3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
  4. Minimize expenditure of public money for costly flood control projects;
  5. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;
  - 40 6. Minimize prolonged business interruptions;
  7. Ensure potential buyers are notified the property is in an area of special flood hazard; and

8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **3B-4 Objectives and Methods of Reducing Flood Losses**

In order to accomplish its purpose, this ordinance includes methods and provisions to:

- 5 1. Require that development which is vulnerable to floods, including structures and facilities necessary for the general health, safety, and welfare of citizens, be protected against flood damage at the time of initial construction;
2. Restrict or prohibit developments which are dangerous to health, safety, and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
3. Control filling, grading, dredging, and other development which may increase flood damage or erosion;
- 10 4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters.

#### **3B-5 Definitions**

- 15 See Chapter 1, Article A

#### **3B-6 General Provisions**

##### **Section A. Lands to Which This Ordinance Applies**

- 20 This Ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the County. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by the Oneida County Development Code.

##### **Section B. Basis for Special Flood Hazard Areas**

- 25 The Special Flood Hazard Areas identified by the Federal Insurance Administrator in a scientific and engineering report titled "Flood Insurance Study (FIS) for "The Flood Insurance Study for Oneida County", dated April 5, 1988, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the Oneida County Courthouse, Planning and Zoning Office.

##### **Section C. Establishment of Floodplain Development Permit**

- 30 A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 3B-6(B).

##### **Section D. Compliance**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

##### **Section E. Abrogation and Greater Restrictions**

- 35 This ordinance shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this ordinance and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

##### **Section F. Interpretation**

- 40 In the interpretation and application of this ordinance all provisions shall be:



1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

#### **Section G. Warning and Disclaimer of Liability**

- 5 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. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Oneida County or by any officer or
- 10 employee thereof for flood damages that result from reliance on this ordinance, or an administrative decision lawfully made hereunder.

#### **Section H. Penalties for Violation**

No structure or land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this ordinance and other applicable regulations.

- 15 Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$300) or imprisoned for not more than 180 days, or both. Each day the violation continues shall be considered a separate offense.
- 20 Nothing herein contained shall prevent the Oneida County from taking such other lawful actions as is necessary to prevent or remedy any violation.

### **3B-7 Administration**

#### **Section A. Designation of Floodplain Ordinance Administrator**

- 25 The Planning and Zoning Administrator, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

#### **Section B. Duties and Responsibilities of the Floodplain Administrator**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

1. Review all development applications and issue permits for all proposed development to ensure all development is reasonably safe from flooding and to assure that the requirements of this ordinance have been satisfied.
- 30 2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
- 35 3. When Base Flood Elevation (BFE) data has not been provided, obtain, review, and reasonably utilize any BFE data, along with floodway data available from a Federal, State, or other source, in order to administer the provisions of this ordinance.
4. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- 40 5. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit.

6. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
7. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
8. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
9. Follow through with corrective procedures of Section 3B-7(C)(2) of this ordinance.
10. Review, provide input, and make recommendations for variance requests.
11. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps, and studies adopted in accordance with the provisions of Article III, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of your community's mapping needs.
12. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
13. Upon occurrence, notify the Federal Insurance Administrator (FIA) in writing whenever the . of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce flood plain management regulations for a particular area. In order that all FHBM's and FIRM's accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority.

#### **Section C. Floodplain Development Application, Permit, and Certification Requirements**

1. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:
  - a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - b. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
  - c. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.



- d. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

- 5 i. A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

2. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

- 10 a. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, rip-rap, docks, grading, paving, excavation or drilling operations, or storage of equipment or materials, etcetera).
- b. All floodplain development permits shall be conditional upon the start of construction of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has commenced as per the Start of Construction definition.

3. Certification Requirements.

- a. If a watercourse is to be altered or relocated, the following shall all be submitted by the permit applicant prior to issuance of a floodplain development permit:
  - 20 i. a description of the extent of watercourse alteration or relocation; and
  - ii. a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and
  - iii. a map showing the location of the proposed watercourse alteration or relocation; and
  - 25 iv. an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.

**Section D. Corrective Procedures**

- 1. Violations to be Corrected. When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 30 2. Actions in Event of Failure to Take Corrective Action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service,
  - 35 stating:
    - a. that the building or property is in violation of the floodplain management regulations;
    - b. that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence
      - 40 pertaining to the matter; and
    - c. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

3. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred twenty (120) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
4. Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
5. Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

#### **Section E. Variance Procedures**

1. The Board shall hear and decide requests for variances from the requirements of this ordinance.
2. Variances may be issued for:
  - a. the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - b. functionally dependent facilities, if determined to meet the definition as stated in Section 3B-5 of this ordinance, provided provisions of Section 3B-7(E)(8)(b, c, and d), have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - c. any other type of development, provided it meets the requirements of this Section.
3. In passing upon variances, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  - a. the danger that materials may be swept onto other lands to the injury of others;
  - b. the danger to life and property due to flooding or erosion damage;
  - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. the importance of the services provided by the proposed facility to the community;
  - e. the necessity to the facility of a waterfront location as defined under Chapter 1, Article A, of this ordinance as a functionally dependent facility, where applicable;
  - f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. the compatibility of the proposed use with existing and anticipated development;
  - h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. the safety of access to the property in times of flood for ordinary and emergency vehicles;



- j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

4. The applicant shall include a written report addressing each of the above factors in Section 3B-7(E)(3)(a-k) with their application for a variance.

5. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

6. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administrator and the State of Idaho upon request.

8. Conditions for Variances:

a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

b. Variances shall not be issued within any designated floodway if the variance would result in any increase in flood levels during the base flood discharge.

c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

d. Variances shall only be issued prior to development permit approval.

e. Variances shall only be issued upon:

i. a showing of good and sufficient cause;

ii. a determination that failure to grant the variance would result in exceptional hardship; and

iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

a. The use serves a critical need in the community.

b. No feasible location exists for the use outside the Special Flood Hazard Area.

c. The lowest floor of any structure is elevated or floodproofed to at least the Flood Protection Elevation.

d. The use complies with all other applicable Federal, State and local laws.

10. The Oneida County Floodplain Administrator will notify the State NFIP Coordinator of the Idaho Department of Water Resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

11. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code 67-6535.

### **3B-8 Provisions for Flood Hazard Reduction**

#### **Section A. General Standards**

In all Special Flood Hazard Areas the following provisions are required:

1. All new construction, substantial improvements, and development shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.
4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor used solely for parking, access, and storage shall:
  - a. be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
  - b. include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
    - i. A minimum of two flood openings on different sides of each enclosed area subject to flooding;
    - ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
    - iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;



- iv. The bottom of all required flood openings shall be no higher than one (1) foot above the interior or exterior adjacent grade;
  - v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or flood resistant wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
10. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 3B-7(E)(9). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of Section 3B-7(C)(3) of this ordinance.
11. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.
12. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
13. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
14. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
15. All subdivision proposals and other development proposals greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.

## **Section B. Specific Standards**

- 1. **Manufactured Homes.**
  - a. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- 2. **Recreational Vehicles.** Recreational vehicles shall be either:
  - a. **Temporary Placement.**
    - i. be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Permanent Placement.

- i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in Section 3B-8(A).

3. Construction of Below-Grade Crawlspace.

- a. The interior grade of a crawlspace must not be below the BFE and must not be more than two (2) feet below the exterior lowest adjacent grade (LAG).
- b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point.
- c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- d. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

**Section C. Standards for Floodplains without Established Base Flood Elevations**

Within the Special Flood Hazard Areas designated as Zone A (also known as Unnumbered A Zones) and established in Article III, Section B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Article V, Section A, shall apply:

The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:

1. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 3B-8(A and B) of this ordinance.
2. When floodway data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Section 3B-8(B and E) of this ordinance.
3. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 3B-5 and utilized in implementing this ordinance. The applicant/developer shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any building permits for structures being issued.
4. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (non-residential) to two feet (2.0 ft.) above the Highest Adjacent Grade (HAG) at the building site or to the Flood Protection Elevation (FPE) whichever is higher, as defined in Section 3B-5 of this ordinance. All other applicable provisions of Section 3B-8(B) shall also apply.

**3B-9 Legal Status Provisions**

**Section A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance**



This ordinance, in part, comes forward by re-enactment of some of the provisions of the Floodplain Overlay Zoning District Ordinance enacted with the Oneida County Development Codes 2018 Amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced.

- 5 The enactment of this ordinance shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Floodplain Overlay Zoning District Ordinance of Oneida County enacted in 2018, as amended, which are not reenacted herein are repealed.

**Section B. Effect upon Outstanding Floodplain Development Permits**

- 10 Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance. Provided, however, that when construction is not begun under such outstanding permit within a period of 180 days subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

15 **Section C. Severability**

This chapter is hereby declared to be severable. Should any portion of this chapter 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 chapter before the declaration of partial invalidity.

## **Article C: Planned Unit Development Overlay District**

3C-1 Purpose

3C-2 Provisions Governing Planned Unit Development

3C-3 Minimum Area

5 3C-4 Uses Permitted

3C-5 Ownership Requirements

3C-6 Common Open Space

3C-7 Utility Requirements

3C-8 Arrangement of Commercial Uses

10 3C-9 Arrangement of Industrial Uses

3C-10 Procedures for Approval of a Planned Unit Development

3C-11 Pre-Application Meeting

3C-12 Contents of Application for Approval of Preliminary Development Plan

3C-13 Recommendation of Preliminary Plan by the Commission

15 3C-14 Contents of Application for Approval of Final Development Plan

3C-15 Recommendation by the Commission

3C-16 Action by the Board

3C-18 Expiration and Extension of Approval Period

### **20 3C-1 Purpose:**

To guide development of land by encouraging planned unit developments (PUD) to achieve the following:

- 25 A. A maximum choice of living environments by allowing a variety of housing and building types and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements;
- B. A more useful pattern of open space and recreation areas;
- C. An appropriate location of accessory commercial/industrial uses and services;
- 30 D. A development pattern which preserves and utilizes natural topography and geologic features, wildlife corridors, scenic vistas, trees, and other vegetation and prevents the disruption of natural drainage patterns;
- E. A more effective use of land than is generally achieved through conventional development resulting in substantial savings through more efficient utilities and streets;
- F. A development pattern in harmony with land use density, transportation, community facilities, and objectives of the Comprehensive Plan;
- 35 G. Approval of a PUD requires rezoning and a development agreement in conjunction with the conditional use permit.

### **3C-2 Provisions Governing Planned Unit Development:**

40 Whenever there is a conflict or difference between the provisions of this Article and those of the other Articles of this Ordinance, the provisions of this Article shall prevail. Subjects not covered by this Article shall be governed by the respective provisions found elsewhere in this Ordinance.



**3C-3 Minimum Area:**

A PUD shall contain an area of not less than the following, however, the Zoning Administrator may permit the submittal of a PUD which does not meet the minimum area requirements provided the Board finds that unique or special circumstances exist with regard to the site so as to warrant the exception and that the PUD will be designed and operated in accordance with the provisions of this ordinance:

A PUD shall contain an area of not less than ten (10) acres:

**3C-4 Uses Permitted:**

All PUDs shall require a Conditional Use Permit. The mixed uses may be allowed provided there is a favorable finding by the Board of the following:

- A. That the uses are appropriate with the residential uses;
- B. That the uses are planned as an integral part of the PUD;
- C. That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion or traffic hazards; and
- D. That the uses are identified and located within the specifically approved development area.

**3C-5 Ownership Requirements:**

- A. An application for approval of a PUD may be filed by a property owner or a person having an existing interest in the property to be included in the PUD. The PUD application shall be filed in the name of the recorded owner or owners of property included in the development. However, the application may be filed by the holder (s) of an equitable interest in such property.
- B. Before approval is granted to the final development plan, the entire project shall be under single ownership or control and legal title must be presented with the final development plan.

**3C-6 Common Open Space:**

- A. A minimum of ten percent (10%) of the gross land area development in any residential PUD project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed.
- B. The required amount of common open space land reserved under a PUD shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the public and retained as common open space for parks, recreation and related uses. Public watercourses and other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the Board.
- C. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan and final plat.

**3C-7 Utility Requirements:**

Underground utilities are required. Appurtenances to these systems which can be effectively screened may be exempt from this requirement if a finding is made that such exemption will not violate the intent or character of the proposed PUD.

**3C-8 Arrangement of Commercial Uses:**

- A. When PUD's include commercial uses, commercial buildings, and establishments they shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations. Screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.
- B. The development plan shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping. Other features and facilities as may be necessary to make the project attractive and efficient from the stand-point of the adjoining and surrounding noncommercial areas.
- C. All areas planned for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.

**3C-9 Arrangement of Industrial Uses:**

- A. PUD's may include industrial uses if it can be shown that the use is compatible with surrounding uses.
- B. Industrial uses and parcels shall be developed in park like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas or docks and/or outdoor storage of raw materials or products. A planned industrial area shall provide for the harmony of buildings in a compact grouping to ensure that infrastructure is provided in a cost-effective manner and not become a burden on the service providers. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.
- C. Industrial uses shall be setback a minimum of 300-feet from any adjacent residential uses. All intervening spaces between the right-of-way line and project building line and intervening spaces between buildings, drives, parking areas and improved areas shall be landscaped with trees and plantings and properly maintained at all times.

**3C-10 Procedures for Approval of a Planned Unit Development:**

When the PUD also qualifies as a subdivision, the processing of the conditional use permit and subdivision application shall occur at the same time. The procedure shall require:

- A. A pre-application meeting with the Planning and Zoning Administrator.
- B. The submission of a conditional use permit, preliminary development plan, and preliminary plat applications with required number of copies and appropriate fee.
- C. Public Hearing before the Commission with preliminary recommendations being sent to the Board of Commissioners for their approval.
- D. The submission of a final development plan and final plat as specified within this Ordinance with appropriate fee and required number of copies of application.
- E. Review of final development plan and final plat by the Board resulting in a final decision.

**3C-11 Pre-Application Meeting:**

The developer shall meet with the Planning and Zoning Administrator prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the implementation of this Ordinance and the criteria and standards contained herein, and to familiarize the developer with the Comprehensive Plan, Development Ordinance and such other plans and ordinances as deemed appropriate.



**3C-12 Contents of Application for Approval of Preliminary Development Plan:**

An application for preliminary PUD shall be filed with the Planning and Zoning Department by a property owner or person having existing interest in the property for which the PUD is proposed. The application shall contain the following information:

- 5       A. Name, address and phone number of applicant;
- B. Name, address and phone number of registered surveyor, engineer or planner assisting in the preparation of the development plans;
- C. Legal description of the property;
- D. Description of existing use;
- 10       E. Description of existing use on surrounding properties;
- F. A vicinity map at a easily readable scale, showing property lines, streets and such other items as the Administrator may require to show the relationship of the PUD to the Comprehensive Plan and to existing community facilities and services;
- 15       G. A preliminary development plan showing topography, location, and type of residential, commercial and industrial land uses; layout, dimensions and names of existing and proposed streets; right-of-ways; utility easements; parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and other characteristics as the Administrator deems necessary;
- H. Proposed schedule for the development and phasing plan of the site;
- 20       I. Evidence that the applicant has sufficient control over the land in the PUD application to start the proposed development plan within two (2) years.
- J. The application for preliminary PUD shall be accompanied by a written statement by the developer setting forth the reasons why the PUD would be in the public interest.
- K. Additional information or documentation as determined by the Administrator.

**3C-13 Approval in Principle of Preliminary Development Plan:**

- 25       A. The Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this Ordinance, whether the proposed development advances the general welfare of the community and neighborhood and whether the benefits, combination of various land uses and the interrelationship with the land uses in the surrounding area justify the deviation from standard district regulations and its recommendation to the Board. The Commission's preliminary recommendation and the Board of Commissioner's approval of the development plan shall be necessary before an applicant may submit a final development plan. Approval shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility.
- 30       B. The Board shall consider all provisions of this chapter including the general standards applicable to conditional use permits and criteria for conditional uses before approving in principle a preliminary development plan. The Board may, upon the finding that unique or special circumstances exist with regard to the preliminary development plan, consider specific deviations from the requirements of this chapter provided conditions are placed on the PUD to assure that it will be designed and operated in accordance with goals and objectives of this chapter.
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**3C-14 Contents of Application for Approval of Final Development Plan:**

Upon approval of the preliminary development plan, an application for approval of the final development plan may be filed with the Planning and Zoning Administrator by at least one property owner or person having a presently existing interest in the property for which the PUD is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within one (1) year from the date of issuance of the approval. At a minimum, the application shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site (including, but not limited to, major wooded areas, hillsides, and areas of special flood hazard), structures, streets, easements, utility lines and land uses;
- B. All the information required on the preliminary development plan, the location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity and land use considered suitable for adjacent properties;
- C. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses; the number of housing units proposed by type; estimated residential population; anticipated timing for each unit and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development.
- D. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity and telephone installations; waste disposal facilities; street improvements and nature and extent of earth work required for site preparation and development;
- E. Site plan, showing buildings, various functional use areas, circulation and their relationship;
- F. Preliminary building plans, including floor plans and exterior elevations;
- G. Landscaping plans; and
- H. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and maintenance of the land, and the improvements thereon, including those areas which are to be commonly owned and maintained.

**3C-15 Action by the Board:**

- A. Within forty-five (45) days after receipt of the final development plan, the Board shall either approve, approve with supplementary conditions, or disapprove the application.
- B. The Board shall find that the facts submitted with the application and presented to them establish that:
  1. The proposed development can be initiated within one (1) year of the date of approval;
  2. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present or potential surrounding uses.



3. The streets proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;
4. Any proposed commercial development can be justified at the locations proposed and is warranted by the design and other amenities incorporated in the final development plan in accordance with the PUD and the adopted policy of the Board;
5. The PUD is in general conformance with the Comprehensive Plan; and
6. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

C. The Board shall specify:

1. The Ordinance and standards used in evaluating the application;
2. The reasons for approval or denial; and
3. The actions, if any, that the applicant could take to obtain a permit.

D. If the application is either approved or approved with conditions, the Board shall direct the Planning and Zoning Department to issue building permits in accordance with the approved final development plan and the supplementary conditions attached thereto.

**3C-16 Expiration and Extension of Approval Period:**

The approval of a final development plan for a PUD shall be for a period not to exceed one (1) year to allow for preparation and recording of the required subdivision plat and the development of the project. If no construction has begun within one (1) year after approval is granted, the approval of the final development plan shall be void. An extension of the time limit or modification of the approved final development plan may be approved if the Board finds that such extension or modification is not in conflict with the public interest.

## Article D: Airport Overlay Zoning District

### 3D-1 Purpose

### 3D-2 Height Limitation Zone

### 3D-3 Height Limitations

### 3D-4 Use Restrictions

### 3D-5 Permits, Additional Requirements

### 3D-6 Variances: Additional Requirements

### 3D-7 Obstruction Marking and Lighting

#### 3D-1 Purpose:

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 continue use of the airport serving Oneida County/Malad City area.

#### 3D-2 Height Limitation Zone:

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 (1) of these zones is considered to be only in the zone with the more restrictive height limitation.

**A. Utility Runway Visual Approach Zone:** The inner edge of the approach zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

**B. Transitional Zones:** The transitional zones are the areas beneath the transitional surfaces.

**C. 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.

**D. 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.

#### 3D-3 Height Limitations:

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

**A. 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.

**B. Transitional Zones:** Slope seven (7) 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 one hundred fifty (150) feet above the airport elevation. In addition, there are transitional sloping seven (7) 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.

**C. Horizontal Zone:** One hundred fifty (150) feet above the airport elevation.

**D. Conical Zone:** Slopes twenty (20) feet outward for each foot upward beginning at the edge of the



horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

- E. Exception from Height Limitations:** Nothing in this ordinance shall prohibit the construction or maintenance of any structure of thirty (30) feet or less in height, or the growth of any tree to a height up to thirty (30) feet above the surface of the land within the horizontal and conical zones.

### **3D-3 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.

### **3D-4 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 thirty (30) feet and the construction of any building or structure that is more than thirty (30) feet in height and is exempted from the requirement for a permit. This includes agricultural outbuildings and similar accessory structures, except as follows:

- A.** Within the horizontal and conical zones: No permits shall be required for trees with a growth habit of less than thirty (30) feet, or for exempt structures of less than thirty (30) feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.
- B.** Within the approach zones, but at a horizontal distance of not less than forty-two hundred (4,200) feet from each end of the runway: No permit shall be required for trees with a growth habit of less than thirty (30) feet, or for exempt structures of less than thirty (30) feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.
- C.** 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 thirty (30) feet, or for exempt structures of less than thirty (30) feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

### **3D-5 Variances: 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.

### **3D-6 Nonconforming Uses: Additional Requirements:**

- A.** Nonconforming uses within the Airport Overlay Zoning District may include trees that shall require a permit for the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft and shall be installed, operated, and maintained at the expense of the county.

- B. The repair and replacement, under specified circumstances, 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.

**3D-7 Obstruction Marking and Lighting.**

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



## Chapter 4

### Regulations Applying to All Districts

|    |           |                                               |
|----|-----------|-----------------------------------------------|
|    | Section 1 | Purpose                                       |
| 5  | Section 2 | Applicability                                 |
|    | Article A | Standard Regulations                          |
|    | Article B | One Time Division                             |
|    | Article C | Property Boundary Adjustment                  |
|    | Article D | Public and Private Roads                      |
| 10 | Article E | Off-Street Parking Requirements               |
|    | Article F | Sign Regulations                              |
|    | Article G | Temporary Use                                 |
|    | Article H | Outdoor Assemblies                            |
|    | Article I | Street Naming and Address Numbering           |
| 15 | Article J | Building Permit Requirements, and Permit Fees |
|    | Article K | Surety Agreements                             |

#### 4-1 Purpose:

20 This chapter establishes regulations for all uses as set forth in the applicable base and overlay districts including specific regulations for one time divisions, property boundary adjustments, public and private roads, master site plans, landscaping, off-street parking and loading, lighting, signs, dedicated open space, and surety agreements.

#### 4-2 Applicability:

- A. All development shall be in accord with the regulations in Article A of this chapter.
- 25 B. Applications for one time divisions shall be reviewed and approved by the regulations as set forth in Article B of this chapter and the procedures in Chapter 7.
- C. Applications for property boundary adjustments shall be reviewed and approved by the regulations as set forth in Article C of this chapter and the procedures in Chapter 7.
- 30 D. Applications for public and private roads shall be reviewed and approved by the regulations as set forth in Article D of this chapter and the procedures in Chapter 7.
- E. Off-street parking or loading facilities shall comply with the regulations of Article E of this chapter.
- F. Signs shall comply with the regulations of Article F of this chapter.
- G. Temporary uses shall comply with the regulations of Article G of this chapter.
- 35 H. Street Naming and Address Numbering shall comply with the regulations of Article H of this chapter.
- I. Surety agreements shall comply with the regulations of Article I of this chapter.

## **Article A: Standard Regulations**

4A-1 Purpose

4A-2 Applicability

4A-3 Lot Requirements

5 4A-4 Yard Requirements

4A-5 Height Requirements

4A-6 General Provisions - Utilities

4A-7 Commercial and Industrial Provisions

4A-8 Property Created by Court Decree

10 4A-9 Property Reduced by Government

4A-10 Residing in Temporary or Non-fixed Structures Prohibited

4A-11 Surface Water Rights

### **4A-1 Purpose:**

15 This Article provides standard regulations for the location, design, and development of new land uses and the alteration of existing land uses. This Article supplements the regulations for development in the base districts and overlay districts as set forth in Chapters 2 and 3.

### **4A-2 Applicability:**

20 This Article shall apply to the development of all principal permitted, accessory, and conditional uses. The following regulations are the minimum standards of development. Additional standards may be applied in accord with overlay districts, specific use standards, or other regulations.

### **4A-3 Lot and Parcel Requirements:**

In addition to all lot and parcel size, density, and configuration requirements specified within Section 2A-4, the following provisions shall be adhered to:

25 A. The minimum lot or parcel size and configuration for all allowed uses shall be at least sufficient to accommodate water supply facilities, sewer disposal facilities, replacement sewage disposal facilities, buildings, parking areas, streets or driveways, open areas, accessory structures, and setbacks as required by this Ordinance. A lot or parcel of one (1) acre or less may be considered where central sewer and water are available.

30 B. For commercial, industrial, and civic uses, the minimum lot area shall be adequate to accommodate the use, and to adequately contain adverse impacts.

### **4A-4 Yard Requirements:**

In addition to all yard regulations specified within Section 2A-4, the following provisions shall be adhered to:

35 A. Visibility at Intersections - On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision necessary for safe operations of motor vehicles or bicycles along or entering public roadways.

B. Yard Requirements for Multi-Family Dwellings - Multi-family dwellings shall be considered as one (1) building for the purpose of determining front, side and rear yard requirements. The entire group as a unit shall require one (1) front, one (1) rear and two (2) side yards.

40 C. Yard Adjustment - The minimum front or rear yard setbacks may be adjusted to allow a proposed principle use building to conform with the average setbacks of four (4) existing similar buildings on adjoining properties, however lot front, rear and side setbacks may be no less than five (5) feet.



D. All structures shall be set back fifty (50) feet from the right-of-way line or seventy-five (75) feet from the center line (whichever is greater) of any State highway.

5 E. Maximum Residential Dwellings per Lot or Parcel: Any buildable lot or parcel conforming to this ordinance shall be permitted a maximum of one (1) residential dwelling unit and one (1) accessory dwelling unit per lot or parcel. Additional residential dwellings shall not be permitted unless specifically permitted elsewhere within this ordinance.

#### 4A-5 Height Requirements:

10 The height limitations contained in Section 2A-4 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other equipment usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

#### 4A-6 General Provisions – Utilities:

15 In addition to all other regulations as specified in this Ordinance all developed lots or parcels shall be provided or shall have direct access to utility services including water supply and sewage disposal as approved by the Health Authority.

#### 4A-7 Commercial and Industrial Provisions:

20 No land or building shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions that could adversely affect the surrounding areas of adjoining premises, except that any use allowed by this Ordinance may be undertaken or maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements:

- 25 A. Fire Hazard - Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be mitigated as required by the State Fire Marshall.
- B. Radioactivity or Electrical Disturbance - No activity shall emit harmful radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance.
- 30 C. Noise - Objectionable noise that is due to volume, frequency or beat shall be muffled or otherwise controlled.
- D. Vibration - No vibration shall be allowed that is discernible without instruments on any adjoining lot or property.
- 35 E. Air Pollution - The emission of any toxic or corrosive fumes, gasses or odors in excess of local, state or federal emissions standards shall not be allowed. State air quality permits, when required, may be a condition of approval.
- F. Glare & Lighting - All lighting or illumination units or sources shall be hooded or shielded to prevent glare on adjacent properties. Flashing or intermittent lights, lights of changing degree of intensity, or moving lights shall not be allowed. This shall not be construed so as to prohibit holiday lights.
- 40 G. Water Pollution - All discharges of hazardous or deleterious materials to surface water or groundwater shall be in compliance with local, state, and federal laws and regulations.

**4A-8: Property Created by Court Decree:**

Any property created by court decree shall be recognized as a property for transfer of ownership and shall not be eligible for development with the exception of any building permits for renovation or repair of an existing structure. To become eligible for development, the property shall comply with all applicable regulations of this ordinance, including, but not limited to, Chapter 2 of this ordinance, Article B of this chapter, and Chapter 6 of this ordinance.

**4A-9: Property Reduced by Governmental Action:**

If a governmental action (such as acquisition through prescription, purchase, or other means by Oneida County, a municipality within Oneida County, Idaho Transportation Department, utility company or corporation under the jurisdiction of the Idaho public utilities commission, or other local, state, or federal agency) reduces an existing property below the required property size, the remaining property shall be deemed as a conforming property for the purposes of development.

**4A-10: Residing in Temporary or Non-fixed Structures Prohibited:** Except as provided in Article G, Chapter 4, no person may reside in a recreational vehicle, tent, yurt, or other non-permanent structure within Oneida County.

The Prohibitions of this subsection shall not apply to:

- A. Persons temporarily staying in a recreational vehicle, tent, yurt, or other non-permanent structure for the purpose(s) of recreational activity (camping, fishing, hunting, etc.), not to exceed a period of 30 days.
- B. Persons who are temporarily staying in a recreational vehicle, tent, yurt, or other non-permanent structure in an approved and lawful campground permitted pursuant to Chapter 5, Subsection 5-3-19.
- C. Persons who are temporarily staying in a recreational vehicle, tent, yurt, or other non-permanent structure who are compensated seasonal managers of an approved and lawful campground permitted pursuant to Chapter 5, Subsection 5-3-19, not to exceed nine (9) months.

**4A-11: Surface Water Rights Transfer Prohibited:**

To allow for the continued irrigation of property which surface water rights are associated, and to not cause harm to the upstream and downstream neighbors, all surface water rights associated with a property shall be maintained with the property to which they are assigned.



**Article B: One-Time Division:**

4B-1 Purpose

4B-2 Applicability

4B-3 Process

5 4B-4 Standards

4B-5 Required Findings

4B-6 Deeds and Legal Descriptions Required

**4B-1 Purpose:**

- 10 The regulations of this Article allow for a one-time division of an original parcel into two (2) parcels without being subject to the subdivision regulations as set forth in Chapter 6.

**4B-2 Applicability:**

These regulations apply to an "Original Parcel" as defined in Chapter 1, the boundaries of which shall not have changed except for one or more of the following:

- 15 A. The parcel of record was reduced by governmental action as specified in Chapter 4, Article A, of this chapter; and/or
- B. The parcel of record was reduced by the conveyance of property to a public utility for the purpose of constructing a public infrastructure facility; and/or
- 20 C. The parcel of record received approval for a property boundary adjustment as specified in Article C of this chapter, and where the parcel of record met both the following standards:
1. The parcel of record had sufficient acreage to accomplish the one-time division prior to completion of the property boundary adjustment; and
  2. The property boundary adjustment did not diminish the size of the parcel of record such that it no longer has sufficient acreage to accomplish the one-time division.

**25 4B-3 Process:**

- A. Application: An application and fees, as set forth in Chapter 7, Article A of this ordinance, shall be submitted to the Administrator on forms provided by the Planning and Zoning Department.
- 30 B. Tentative Approval; Requirements: Upon tentative approval of the application by the Administrator subject to any applicable conditions of approval and the regulations of Chapter 7, Article A, the applicant, or owner shall have one year to complete the following tasks:
1. Survey the property and record a record of survey with the Oneida County Recorder;
  2. Obtain new tax parcel numbers from the Oneida County Assessor; and
  3. Provide copies of the recorded record of survey and the new tax parcel numbers to the Administrator.
- 35 C. Issuance Of Approval Letter: Upon determination by the Administrator that the one-time division is in conformance with this Article, the Administrator shall issue a letter stating that the one-time division has received final approval.

**4B-4 Standards:**

- A. The proposed division shall result in two (2) parcels that comply with the standards and regulations as set forth in sections 2A-4 and 4A-3 of this ordinance, except when the parcel of record has been diminished by governmental action, the Administrator may approve a reduced property size on one of the resulting parcels, subject to other regulations of this ordinance. Each of the resulting parcels shall remain eligible for a minor subdivision in accordance with 6-8-1, so long any division of a resulting parcel otherwise meets all other requirements of that section and this Ordinance.
- B. The proposed division is not located within a "subdivision" as defined in this ordinance.
- C. If multiple pieces of contiguous property in the same ownership would otherwise constitute a "parcel" pursuant to the definition of a "parcel" pursuant to Chapter 1 of this ordinance, then only one of those properties may be allowed a one-time division within that said parcel.
- D. Remaining parcels created pursuant to this Article must have a minimum area of one (1) acre or greater as long as said parcels are otherwise in compliance with 4A-3. However, a remaining parcel of one (1) acre or less may be considered where central sewer and water are available.

**4B-5 Required Findings:**

In order to approve the application, the Administrator shall find that the proposed one-time division complies with the standards in Section 4B-4 of this Article.

**4B-6 Deeds and Legal Descriptions Required:**

Upon splitting of or creation of any parcel of land, a legally issued deed containing a valid legal description for any created parcels of land and for each remaining parcel of land. The deeds and legal descriptions shall be issued and recorded with the Oneida County Clerk and a copy thereof provided to the Oneida County Assessor. No permit shall be granted or valid under this title without compliance with this section.



## **Article C: Property Boundary Adjustment:**

4C-1 Purpose

4C-2 Applicability

5 4C-3 Process

4C-4 Standards

4C-5 Required Findings

4C-6 Legal Descriptions Required

### **10 4C-1 Purpose:**

The regulations of this Article allow for the adjustment of parcel lines or platted lot lines between existing legal or nonconforming properties. A property boundary adjustment does not vacate the platted lot lines of a recorded subdivision.

### **4C-2 Applicability:**

- 15 A. These regulations apply to existing lots and parcels located outside of city jurisdictional boundaries within Oneida County.

### **4C-3 Process:**

- 20 A. Application: An application and fees, as set forth in Chapter 7, Article A of this ordinance, shall be submitted to the Administrator on forms provided by the Planning and Zoning Department. The application shall contain the following information:
1. A letter from the homeowner's association approving the Property Boundary Adjustment; if applicable.
  2. The Record of Survey documents a Property Boundary Adjustment.
  - 25 3. Necessary documents from the lending institution may be required acknowledging the Property Boundary Adjustment.
- B. Tentative Approval; Requirements: Upon tentative approval of the application by the Administrator subject to any applicable conditions of approval and the regulations of Chapter 7, Article A, the applicant, or owner shall have one year to complete the following tasks:
- 30 1. Cause the property to be surveyed and a record of survey recorded;
  2. Execute and record the necessary deeds to accomplish the property boundary adjustments as approved;
  3. Obtain new tax parcel numbers from the Oneida County Assessor; and
  4. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the director.
- 35 C. Issuance Of Approval Letter: Upon determination by the Administrator that the final property boundary adjustment is in conformance with this Article, the Administrator shall issue a letter stating that the property boundary adjustment has received final approval.

### **4C-4 Standards:**

- 40 A. A property boundary adjustment shall not reduce the property size below the minimum dimensional standards prescribed by this ordinance.

B. If one or more of the properties is nonconforming as to the minimum dimensional standards prescribed by this ordinance, the property boundary adjustment shall not increase the nonconformity.

C. A property boundary adjustment shall not increase the original number of properties.

5 D. A property boundary adjustment shall not change or move any public streets, private roads, easements, or publicly dedicated areas in any manner.

E. The property boundary adjustment shall not constitute a relocation of a property.

F. For platted lots, the property boundary adjustment shall be in substantial conformance to the recorded plat.

10 **4C-5 Required Findings:**

In order to approve the application, the decision-making body shall find that the proposed property boundary adjustment complies with the standards in Section 4C-4 of this Article.

**4C-6 Legal Descriptions Required:**

15 Any Property Boundary Adjustment must be accompanied by a valid legal description for any parcels affected by the Adjustment. The legal descriptions shall be provided to the Oneida County Assessor. No approval letter shall be granted or valid under this title without compliance with this section.



**Article D: Public and Private Roads:**

4D-1 Purpose

4D-2 Applicability

**5 4D-1 Purpose:**

The County has adopted supplemental standards and regulations (titled "Highway Standards and Roadway Development Procedures for Oneida County", incorporated herein by reference and available at the Oneida County Clerk's Office) pertaining to the design and construction of public roads. Plans and documents reflecting the required standards and regulations shall be submitted with applications associated with a conditional use permit, variance, and subdivisions.

**10 4D-2 Applicability:**

A. All private and public roads developed in conjunction with the platting of subdivisions shall be constructed in conformance with the Highway Standards and Roadway Development Procedures for Oneida County. All development, and major revisions or additions to existing subdivisions shall be subject to the requirements of this Section.

B. The provisions of this Section shall apply to unincorporated areas of Oneida County for private and public road construction and reconstruction will conform to these standards.

C. The provisions of this Section shall not apply to the repair and/or maintenance of any road existing at the time of adoption of this Section, unless the existing road is for access to a new development.

D. The provisions of this Section shall not apply to roads constructed and maintained to provide access to each part of an original tract which is divided as provided in Chapter 6, Subdivision Regulations if the division of such original tract is not considered as a division or subdivision within the provisions of Chapter 6, Subdivision Regulations.

E. The provisions of this Section shall not apply to any roads situated on lands owned by the State of Idaho or the United States except to the extent the State of Idaho or the United States grants written permission to apply the provisions of this Section.

F. The "Highway Standards and Roadway Development Procedures for Oneida County" are provided as adopted by Resolution of the Board of County Commissioners.

## **Article E: Off-Street Parking Requirements:**

4E-1 Purpose

4E-2 Applicability

5 4E-3 General Parking Requirements

4E-4 Location of Parking Spaces

4E-5 Parking Area Requirements

4E-6 Parking Lot Design

4E-7 Parking Spaces Required

10 4E-8 Parking Requirements for Uses Not Specified

4E-9 Common Facilities for Mixed Uses

4E-10 Joint Use of Parking Facilities

4E-11 General Provisions; Off-Street Loading

### **4E-1 Purpose:**

15 The purpose of this Article is to set forth the minimum requirements for off-street vehicular parking and loading for various buildings and land uses.

### **4E-2 Applicability:**

20 The following standards shall apply to any new construction, alteration, or moving of a structure or any new or more intense use of property. The number of off-street parking spaces, as hereinafter set forth, shall be provided for all allowed uses. A greater number of spaces may be required in any application involving discretionary approval.

### **4E-3 General Parking Requirements:**

- 25 A. Off-street parking and loading facilities drawn to scale shall be shown on a site plan for building permit or Administrator review. This is not required for single-family or two-family dwellings.
- B. Whenever a land use is changed or altered (enlarged, increase in number of employees, seating capacity, etc.) in such a manner that will increase the parking space requirement specified by this Ordinance, a site plan showing the design for the additional parking spaces shall be submitted to the Administrator for approval.
- 30 C. No inoperable or unlicensed vehicles shall be parked within public or private off-street parking areas. Inoperable or unlicensed vehicles may be located in an enclosed building or enclosed back yard.

### **4E-4 Location of Parking Spaces:**

35 An off-street parking lot for uses other than residential uses shall be located on the same lot as the principal use the parking lot serves or within five hundred (500) feet of the principal building it serves. The five hundred (500) foot measurement shall be measured from the nearest point of the principal building to the nearest point of the parking lot.

### **4E-5 Parking Area Requirements:**

40 All public or private parking areas which contain five (5) or more parking spaces shall be improved according to the following:

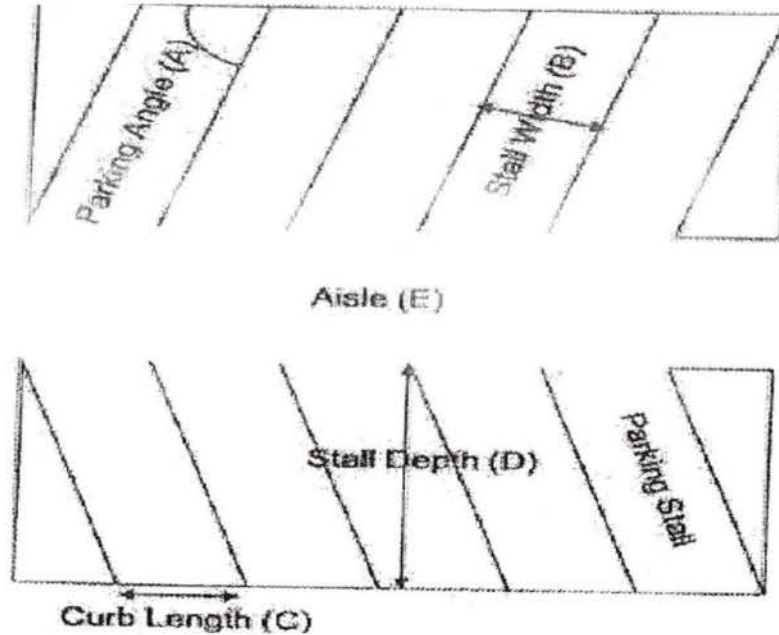
- A. All parking areas except those in conjunction with single-family or two-family dwellings shall have surfacing of all weather or durable and dust-free surfacing materials as approved by the Board.



- B. All parking areas, except those required in conjunction with a single-family or two-family dwellings, shall provide a bumper which will prevent cars from encroachment on abutting private or public property.
- 5 C. All parking areas, including service drives, which abut a residential area, shall provide a sight-obscuring fence, wall or hedge not less than three (3) feet nor more than six (6) feet in height.
- D. Any lights provided to illuminate any public or private parking area shall be so arranged or hooded as to reflect the light away from any abutting or adjacent use.
- E. Parking areas for residential uses, except those required in conjunction with a single-family or two-family dwellings, shall not be located in a required front yard.
- 10 F. On-site retention of surface water runoff shall be provided that will be adequate to drain the surface of the parking area so as to prevent the flow of water to adjacent properties.

#### 4E-6 Parking Lot Design:

15 All parking spaces and parking lots shall be designed and constructed to the following minimum standards:



| Angle    | Stall Width | Curb Length | Stall Depth | Aisle Widths* |
|----------|-------------|-------------|-------------|---------------|
| Parallel | 9'          | 23'         | 9'          | 12'           |
| 30°      | 9'          | 18'         | 18'         | 12'           |
| 45°      | 9'          | 12'9"       | 21'         | 13'           |
| 60°      | 9'          | 10'6"       | 21'         | 16'           |
| 90°      | 9'          | 9'          | 20'         | 24'           |

\* All aisles less than 20-feet are consider one way.

#### 4E-7 Parking Spaces Required:

- 20 The following off-street parking spaces requirements shall apply:

| Type Of Use                                                                                  | Parking Spaces Required                                                                                                                                       |
|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Residential:                                                                                 |                                                                                                                                                               |
| Apartments or multi-family dwelling                                                          | 1 1/2 for each unit                                                                                                                                           |
| Boarding houses, rooming houses, dormitories and fraternity houses which have sleeping rooms | 1 for each sleeping room or 1 for each permanent occupant                                                                                                     |
| Mobile home park                                                                             | 1 for each unit, plus 1 additional space for each 5 units                                                                                                     |
| Single-family or two-family dwelling                                                         | 2 for each unit                                                                                                                                               |
| Commercial:                                                                                  |                                                                                                                                                               |
| Automobile service garages which also provide repair                                         | 1 for each 2 gasoline pumps and 2 for each service bay                                                                                                        |
| Banks, financial institutions and similar uses                                               | 1 for each 200 square feet of area                                                                                                                            |
| Funeral parlors, mortuaries, and similar type uses                                           | 1 for each 100 square feet of floor area in slumber rooms, parlors or service rooms                                                                           |
| Hotels, motels                                                                               | 1 per each sleeping room plus 1 space for each 2 employees                                                                                                    |
| Offices, public or professional administration or service buildings                          | 1 for each 400 square feet of floor area                                                                                                                      |
| Retail stores                                                                                | 1 for each 250 square foot area                                                                                                                               |
| All other types of business or commercial uses permitted in any business district            | 1 for each 300 square feet of floor area                                                                                                                      |
| Recreational or entertainment:                                                               |                                                                                                                                                               |
| Auditoriums, sports arenas, theaters and similar uses                                        | 1 for each 4 seats                                                                                                                                            |
| Bowling alleys                                                                               | 4 for each alley or lane, plus 1 additional space for each 100 square feet of the area used for restaurant, cocktail lounge or similar use                    |
| Dance floors, skating rinks                                                                  | 1 for each 100 square feet of floor area used for the activity                                                                                                |
| Dining rooms, restaurants, taverns, nightclubs, etc.                                         | 1 for each 200 square feet of floor area                                                                                                                      |
| Outdoor swimming pools, public or community or club                                          | 1 for each 5 persons' capacity, plus 1 additional for each 4 seats or 1 for each 30 square feet of floor area used for seating purposes, whichever is greater |
| Institutional:                                                                               |                                                                                                                                                               |
| Churches and other places of religious assembly                                              | 1 for each 5 seats                                                                                                                                            |
| Hospitals                                                                                    | 1 for each bed                                                                                                                                                |
| Libraries, museums and art galleries                                                         | 1 for each 400 square feet of floor area                                                                                                                      |
| Medical and dental clinics                                                                   | 1 for every 200 square feet of floor area of examination, treating room, office and waiting room                                                              |



|  |                                                                                                |                                                                                                                                                  |
|--|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
|  | Sanatoriums, homes for the aged, nursing homes, children's homes, asylums and similar uses     | 1 for each 2 beds                                                                                                                                |
|  | Schools (public, parochial or private):                                                        |                                                                                                                                                  |
|  | Business, technical and trade schools                                                          | 1 for each 2 students                                                                                                                            |
|  | Colleges, universities                                                                         | 1 for each 4 students                                                                                                                            |
|  | Elementary and junior high schools                                                             | 2 for each classroom and 1 for every 8 seats in auditoriums or assembly halls                                                                    |
|  | High schools                                                                                   | 1 for every 10 students and 1 for each teacher and employee                                                                                      |
|  | Kindergartens, daycare centers, nursery schools and similar uses                               | 2 for each classroom but not less than 6 for the building                                                                                        |
|  | Manufacturing:                                                                                 |                                                                                                                                                  |
|  | All types of manufacturing, storage and wholesale uses permitted in any manufacturing district | 1 for every 2 employees (on the largest shift for which the building is designed), plus 1 additional for each motor vehicle used in the business |
|  | Express, parcel delivery and freight terminal                                                  | 1 for every 2 employees (on the largest shift for which the building is designed) and 1 for each motor vehicle maintained on the premises        |

#### 4E-8 Parking Requirements for Uses Not Specified:

5 The parking space requirements for buildings and uses not set forth herein shall be determined by the Board and such determination shall be based upon the requirements for the most comparable building or use specified herein.

#### 4E-9 Common Facilities for Mixed Uses:

10 In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered to provide parking facilities for any other use except as provided below.

#### 4E-10 Joint Use of Parking Facilities:

- 15 Joint Uses Of Parking Facilities: The Administrator may, upon application, authorize the joint use of parking facilities required by said uses and any other parking facility, provided that:
- A. The applicant shows that there is no substantial conflict in the principal operating use of the building or use for which the joint use of parking facilities is proposed.
  - B. The parking facility for which joint use is proposed is not further than five hundred (500) feet from the building or use require to have provided parking.

#### 4E-11 General Provisions; Off-Street Parking:

- 20 The provision and maintenance of off-street loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use of property for which the building permit is issued.
- A. Owners of two or more buildings may agree to utilize jointly the same loading spaces, if approved by the Administrator.
  - 25 B. Areas used for standing and maneuvering of vehicles shall have durable surfaces of asphaltic

concrete or dust-free surfacing, maintained adequately for all weather use.

- C Loading areas adjacent to residential uses shall be designed to minimize disturbance of residents. Artificial lighting which may be provided shall be so deflected as not to shine or create glare in or on any adjacent dwelling.
- 5 D. On-site retention of surface water shall be provided that will be adequate to drain the surface of the loading area so as to prevent flows of water onto adjacent properties.



**Article F: Sign Regulations:**

4F-1 Purpose

4F-2 Applicability

4F-3 Exemptions

5 4F-4 Procedures

4F-5 Standards

4F-6 Land Use Standard for Signage

4F-7 Enforcement

10 **4F-1 Purpose:**

The purpose of this chapter is to provide maximum visibility for safety purposes along roadways, maintain unobstructed views at intersections and prevent undue distractions to vehicle operators by preventing confusion at or near traffic signs and signals and along corridors.

15 It is also the intent of this chapter to preserve the rural character by not allowing flashing, reader boards or outsized billboards but to encourage artistic design and creativity through simple effective signage. Therefore, the intent is to promote rural character and not a city center appearance in the county. Furthermore, the intent is to require preplanning of select signage and promote artistic license within the same size limit and similar location for less confusion and clutter. Signs meeting this intent will act as a signature block for creative expression but not an advertising billboard. This chapter contains

20 Sign Standards for uniform but creative signage. The pride of ownership and entrepreneurship is encouraged by artistic signage in the community. Residents and tourists will notice the improvements this makes to the general appearance of Oneida County.

**4F-2 Applicability:**

25 The following standards shall apply to signs that are installed, constructed, painted, or altered after the effective date of this title:

- A. Signs Requiring Building Permits: The Oneida County building permit requirements as set forth in Chapter 4, Article I, of this ordinance shall determine signs that require building permits.
- B. Signs Requiring Administrative Approval: Unless otherwise noted as exempt in this Article, any sign shall require administrative approval prior to construction and/or placement.
- 30 C. Primary Highways: The standards of this Article shall apply to all primary highways covered by the Idaho highway beautification act, Idaho Code title 40, Chapter 19, to the extent that this Article is more restrictive with respect to maintaining signs on such roadways.

**4F-3 Exemptions:**

Signs exempted from county permit requirements are as follows:

- 35 A. Directional or information signs that are no larger than three (3) square feet per face, which help direct on premises land uses or activities, and do not display an advertising message (for example: Public convenience signs identifying restrooms, public telephones, walkways and similar features or facilities, parking directions, etc.)
- 40 B. Memorial signs or tablets displaying names of buildings and dates of erection when cut into the surface or facade of the building.

- C. Signs required by law or that serve the public interest such as traffic signs, railroad crossing signs, legal notices, warning of temporary emergencies, construction zones, presence of underground cable, utility signs, and similar signs installed on public property and are owned and maintained by County, State, or Federal agencies or a public utility company.
- 5 D. Temporary signs or banners that bear no product advertising and announce nonprofit community or civic events. Such signs or banners shall be removed within seven (7) days following the event.
- E. A sign that is visible only from within the parcel on which it is found.
- F. Signs to be built within the limits of a municipality.
- 10 G. Signs that identify the architects, engineers, contractors, lenders, government agencies or programs (i.e. FHA, HUD, FMHA, Low Cost Housing, Senior Citizen Center, etc.) and other individuals or firms involved with the construction. This shall not include any advertisement of any product, or signs announcing the character of the building enterprise or the purpose for which the building is intended, or use of the project. The signs shall be confined to the site of the construction and shall be removed within fourteen (14) after the beginning of the intended use of the project.
- 15 H. Homeowner locator signs placed at intersections are allowed if each sign is not more than one (1) square foot per face and the mounting device is located off public road right-of-way. Such signs shall be kept in good repair.
- I. Signs advertising the sale, rental, or lease of real property shall be confined to the property to which they apply. Such signs may be up to a total area of (32) thirty-two square feet per face in size. The number of signs shall be limited to one sign per parcel up to and including 40 acres, or not more than one sign per frontage. Directional signs may be placed at intersections to direct interested parties to Real Estate that is for sale, for rent or lease. Only one (1) directional sign per agency will be allowed. The directional sign shall not be more than 192 square inches, or a maximum of 8 inches by 24 inches. Such sign may indicate the name of the Real Estate Agency or their logo.
- 20 Signs must be kept in good repair. All such signs shall be removed within fourteen (14) days after the sale, rental or lease.
- 25 J. Signs announcing candidates seeking public political office and other data pertinent thereto, up to an area of thirty-two (32) square feet for each premise. Such signs shall be confined to private property and removed within fourteen (14) days after the election for which they were intended.
- 30 K. Show window signs in a window display of merchandise when incorporated with such a display.

#### 4F-4 Procedures:

- A. A permit is required before any sign regulated by these provisions is displayed or built on any premises in this jurisdiction.
- 35 B. Applications shall be made on forms provided by the Oneida County Planning and Zoning Department. The content of the application shall be as required herein and shall include all of the information needed to complete the application form, supplementary drawings of the sign plan, and any other information needed to complete the application review. The application shall be accompanied by the fee set forth by resolution by the Oneida County Board of Commissioners.
- 40 C. A sign plan shall be included with the application and shall contain at least the following information:
  - 1. Materials to be used in manufacturing and constructing the sign.
  - 2. Sign size, message size or field of lettering, and proportions.
  - 3. Lettering size or graphic style.



4. Design features other than lettering such as symbols, logos, etc.
5. Color scheme.
6. Lighting, if proposed.
7. Location of each sign on the building(s) and/or property.

5 Sign plans shall be drawn neatly to scale to present a clear and accurate picture of the proposal. More than one drawing and drawings at various scale may be used.

The sign plan shall be a simple layout reviewed for compliance with standards and artistic merit. Artistic merit shall be seen in three categories:

1. Display skill of handiwork, line work and mechanics.
- 10 2. Exhibit quality and design in signage layout and lettering.
3. Display technique compatible to other rural signage in color and material.

D. The sign permit application will be accepted when the completed forms, including a sign plan and fee are submitted to the Planning and Zoning Department. The application will be reviewed by staff within seven (7) working days for acceptance. The permit will be either approved or denied based upon compliance with provisions herein.

If the application is denied, staff will include a written statement of the specific reasons for denial. The applicant may correct the application and request another staff review. The applicant may appeal any action of staff regarding the review of an application to the Planning and Zoning Commission according to Chapter 7, Section 7, herein.

20 If the application is found to comply with the provisions herein, the permit will be approved. The applicant may then construct, build and display the sign and shall notify staff when the work approved by the permit has been completed.

#### **4F-5 Standards:**

Oneida County will regulate the size, amount and location of signage as provided by this Ordinance.

25 All signs within the unincorporated areas of Oneida County shall conform to the following requirements.

A. No rotating beam, beacon or flashing illumination that may resemble an emergency light shall be used with any sign display. No blinking, rotating or moving parts or components on temporary or permanent signs. Signs shall not have pennants, balloons or portable signs on wheeled trailers.

30 B. It shall be the responsibility of the owner of the property and/or improvements to remove any sign or signs where the associated land use has been discontinued for more than ninety days. If a onetime event, the removal of signs shall take place within seven (7) days after the event closure.

C. If a preview sign has been erected for a future use, it shall be for a business that has received an allowed or conditional use permit to operate and meets the provisions of the sign portion of this Ordinance.

35 D. The size shall be not greater than thirty-two (32) square feet per face, for example that of 4-foot by 8-foot in size. Cut-out or molded letters, or advertising when applied to buildings, shall not be greater than thirty-two (32) square foot field on the building.

- E. One construction sign of more than six (6) square feet, provided that the sign is not placed until construction begins and that it is removed within thirty (30) days after the completion of construction.
- F. Necessary on-site directional signs, not to exceed four (4) square feet each.
- 5 G. Any combination of the following signs, provided that the total sign area does not exceed 10% of the area of the building façade facing a road frontage:
  - 1. Wall signs
  - 2. Projecting signs with less than sixteen (16) square feet per side.
  - 10 3. One ground or pole sign for each road frontage of less than 25-feet in height and with less than thirty-two (32) square feet in size.
- H. The message may include service, business, owner name, address, telephone number, a logo, or graphic illustration of the product(s) or service(s) offered.
- 15 I. On ground mounted signs, the top of the signs shall be mounted not more than ten (10) feet off the ground. If the street/road elevation is greater than the elevation of the mounting site, street/road elevation may be used to determine the height. The total height of the mounting structure shall be no greater than twelve (12) feet. The intent is to keep the sign within the vision triangle of the motor vehicles. Special attention must be given to the placement of signs near intersecting roads to assure there is not obstruction of vision from any vehicle.
- 20 J. No more than three (3) permanent signs may be placed at a given land use. One sign is allowed on the building. On two-way signs or two one-way signs facing each direction is allowed in the land use area.
- 25 K. For Commercial Malls or Planned Unit Developments (industrial or commercial or a combination of land use) not more than one ground mounted sign structure shall be allowed on each road or street frontage. The sign may be used as land use and occupant identification sign. Projecting or a swinging sign is not allowed. One sign shall be allowed to be mounted flat to the building front of each shop, store or land use.
- 30 L. No sign or sign structure, for any purpose other than approved County, State and Federal signs shall be placed upon any county street or highway right-of-way. At no time shall any sign be mounted or affixed to any utility pole or structure other than as may be required by the utility owner or law.
- 35 M. Buffering impacts of signage located adjacent to residential zoned property will require approval of a Conditional Use Permit process.
- N. If placed inside a window, flashing signs must be not less than three hundred (300) feet from any residential area. Distance shall refer to the lineal measurement in any direction with relation to the street that the sign faces.
- O. At no time shall a sign or portions of it be allowed to project above the roof line of the building on which the sign is mounted.
- P. Off-premises or Outdoor Advertising signs are prohibited in the unincorporated areas of Oneida County.
- 40 Q. An application for any sign or advertising display or structure for which no specific regulation appears in this Ordinance shall receive appropriate Planning and Zoning Department staff review as outlined in this chapter.
- R. Signs may be illuminated by shielded or directed light sources.



S. Any signs placed along State Highway 38 must meet the standards of the Idaho Department of Transportation and Oneida County.

T. No sign shall be placed on a vehicle or trailer parked in a visible location on a public right-of-way for the primary purpose of displaying the sign.

5 U. No sign may be placed where it creates a traffic safety hazard by obscuring traffic control signs or signals or obstructing vision at intersections or driveways.

**4F-6 Land Use Standard for Signage:**

AGRICULTURAL USE: One two-way or two one-way identification signs each not to exceed thirty-two square feet per face.

10 RESIDENTIAL SUBDIVISION ENTRY(S): One (1) identification sign at two entries not to exceed thirty-two (32) square feet per face.

COMMERCIAL BUSINESSES: One two-way or two one-way identification signs each not to exceed thirty-two (32) square feet per face.

15 RECREATION OR FORESTRY USE: One (1) identification sign, not to exceed thirty-two (32) square feet per face.

RESIDENTIAL USE: One (1) identification sign, not to exceed one (1) square foot per face, and shall be exempt from permit requirements.

**4F-7 Enforcement:**

20 The Planning and Zoning Administrator hereby is authorized and furthermore directed to enforce the provisions of this Ordinance. The procedure for handling a violation of this Ordinance will be the same as any Planning and Zoning violation.

25 A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business it identifies is no longer conducted on the premises. The owner shall be notified by mail to remove the sign within thirty (30) days.

## **Article G: Temporary Use:**

4G-1 Purpose

4G-2 Applicability

4G-3 Process

5 4G-4 Standards

4G-5 Required Findings

### **4G-1 Purpose:**

The regulations of this Article allow temporary uses on a property.

### **10 4G-2 Applicability:**

All properties within the county may apply for a temporary use unless otherwise specifically prohibited in Chapter 2, Section 3.

- 15 A. Temporary uses that require Administrator approval shall include: temporary signs, seasonal stands, fireworks stands, subdivision model homes/real estate offices, and reapplication for an existing permitted temporary use, provided that the permit has not expired or been revoked.
- B. Temporary uses that require Planning and Zoning Commission approval shall include, but not be limited to, new applications and reapplications for an expired or revoked permit for: small pit, mine, or quarry; or an anemometer or similar device.

### **4G-3 Process:**

- 20 A. Any temporary use that requires administrative approval shall submit an application and fees, as set forth in Chapter 7, Article A, to the Administrator on forms provided by the Planning and Zoning Department.
- B. The Administrator shall apply the specific use standards listed in Section 4G-4 of this Article and the findings listed in Section 4G-5 of this Article to review the temporary use.
- 25 C. Upon determination by the Administrator that the temporary use is in conformance with this Section and that any applicable conditions of approval have been met, the Administrator shall either approve the temporary use, schedule the application to be reviewed and approved by the Planning and Zoning Commission, or schedule the application to be reviewed and approved by the Board of County Commissioners as determined by Section 4G-2.

### **30 4G-4 Standards:**

- A. Except for those uses that may be allowed in this Article for periods exceeding twelve (12) months, the use may be granted for a specified period not exceeding twelve (12) months from the time of administrative approval. If the use will continue beyond twelve (12) months, then a conditional use application must be submitted and approved.
- 35 B. The use shall not result in the construction of any permanent structure that would not otherwise be permitted subject to the regulations of this ordinance.
- C. No structure shall be located within the required yard, nor shall any structure obstruct the "clear vision triangle" as herein defined.
- 40 D. Temporary signs, as herein defined, that are less than or equal to six (6) square feet in area shall be exempt. Temporary signs shall not exceed forty-eight (48) square feet.
- E. Fireworks stands shall meet the following additional standards:



1. Prior to the issuance of a zoning certificate, the applicant or owner shall obtain a permit to sell fireworks in accordance with Idaho Code Section 39-2604 from the appropriate fire district.
2. Dates of fireworks sales shall comply with Idaho Code Section 39-2606.
3. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article C of this title.

F. Subdivision model home/real estate sales offices shall meet the following additional standards:

1. The sales office shall be located on a lot within a subdivision or planned unit development, or on a space within a manufactured home park.
2. The principal use of the sales office shall be the sale of lots and/or dwellings or renting of spaces within the development.
3. The sales office shall meet the construction standards for a commercial occupancy. The applicant or owner shall obtain all necessary building permits as required Chapter 4, Article I, of this ordinance.
4. The applicant or owner shall obtain a building permit to convert the sales office to a dwelling or shall remove the sales office within thirty (30) days of the sale or rental of the final lot or space.
5. Subdivision model home/real estate sales offices may operate continually for over twelve (12) months upon the Administrator's approval.

G. Permission to live in an existing dwelling, temporary manufactured home, or non-permanent structure shall be granted until the completion of the construction of the new principal permitted dwelling, or for not more than twelve (12) months, whichever time period is less, unless otherwise permitted. The existing dwelling or the temporary manufactured home shall be removed prior to issuance of the certificate of occupancy for the principal permitted dwelling, unless the existing dwelling or manufactured home is approved for use as a secondary dwelling.

H. Recreational Vehicles (RV) Used As Living Quarters:

1. Purpose: The intent of this subsection is to provide a temporary, affordable, transitional housing alternative to Oneida County residents through the use of RVs that is sanitary, safe and maintains the residential character of the surrounding neighborhood. The county requires primary residency to be within permanent structures but recognizes the need for independent, temporary living quarters within our community. For those residents who require the temporary use of RVs as their residence, the county prescribes standards for the approval of such units in this Subsection H.
2. Applicability: These standards pertain to the use of an RV as primary living quarters on property outside of a legal RV or manufactured home park for more than thirty (30) days in a one-year period. The standards do not apply to the residential use existing dwellings, temporary manufactured homes, or non-permanent structures permitted under Article G of this Chapter.
3. Number Allowed: One RV used as primary living quarters is permitted on a legal parcel that is one acre or greater in size, in accordance with the standards listed in this section.
4. Time Period/Time Extensions: RVs may be used as the primary living quarters for up to one year on the same property where a new principal dwelling is currently under construction with an active building permit. The Administrator may grant up to three (3) extensions in one-year intervals if the RV is appropriately screened from public view and otherwise complies with the requirements of this subsection 4G-4H. If the building permit is revoked for any reason or expires, the RV permit will also be revoked, and the RV may no longer be used as primarily

living quarters. This section shall not apply to RVs used as living quarters on the same property for thirty (30) days or less within a one-year period.

5. Inspections: On-site inspections shall be permitted to ensure compliance with these standards and all State and Federal health laws, codes, and standards, and shall be conducted by the Administrator, State or Federal Health Officials, or an authorized designee. Inspections shall not occur more often than one (1) time per month, unless reasonable cause exists that there is a violation of this Subsection H. If an inspection is refused or the Administrator is unable to perform an inspection after good-faith efforts to perform the same, the Administrator may revoke a permit issued pursuant to this Subsection upon written notification to the resident.
6. Permit Required: All property owners siting an RV under this section are required to obtain an RV residency permit and pay the established fee prior to use of the RV as living quarters.
7. Addressing: If an RV is sited on a property with an existing address, no new address shall be issued for the RV.
8. Wastewater: The RV shall utilize a wastewater system approved by and/or acceptable to the health department. No dumping of wastewater or sewage in unapproved systems is permitted.
9. Location: The RV shall be located to the side or rear of a primary dwelling if one exists on the property. No RV used as primary living quarters shall be located within an enclosed building.
10. Skirting or Screening: The building official may require that an RV have adequate skirting or screening material around the base.
11. Prohibitions:
  - a. Two (2) or more RVs used as living quarters on the same property;
  - b. RVs used as living quarters on parcels already approved for a temporary dwelling under Article G of this Chapter;
  - c. RVs used as living quarters on parcels less than one acre in size;
  - d. RVs used as living quarters on an illegal parcel
- I. For standards related to temporary permits for a pit, mine, or quarry, see the specific use standards in Chapter 5, Section 3, of this ordinance.
- J. The applicant shall have a continuous obligation to maintain adequate housekeeping practices so as not to create a nuisance.
- K. For uses that require Administrator approval, the Administrator may require additional conditions to mitigate impacts. The conditions may include, but not be limited to, any or all of the following:
  1. Standards related to the emission of noise, vibration, and other potentially objectionable impacts.
  2. Limits on time of day for the conduct of the specified use.
  3. Other standards necessary to protect the public health, safety, and welfare and mitigate adverse effects on surrounding property.
- L. Temporary Hardship Residence requests shall meet the additional required standards:
  1. Provides a convenient, temporary, separate dwelling unit for a family in case of medical hardship.
    - a. The Temporary Hardship Use shall be placed on a lot, inclusive of the primary dwelling site, having a minimum size of one (1) acre.



- b. Only one (1) Temporary Hardship Use shall be allowed on a lot having a minimum size of one (1) acre.
- c. Dependency, for the purpose of the Temporary Hardship Use, shall mean medical dependency or physical or mental handicap. Dependency shall be determined by the Board of County Commissioners prior to issuance of a building permit.
- d. The owner of the real property on which the Temporary Hardship Use is located shall be the sponsor when making a request for a Temporary Hardship Permit.
- e. A written statement shall be provided by the sponsor from a licensed physician stating the nature of the medical dependency or physical or mental handicap when making a request for a permit.
- f. It shall be the responsibility of the sponsor to submit an application with the Administrator stating that the Temporary Hardship Use, which is located on the property of the sponsor:
  - i. Is temporary, and is to be removed upon termination of occupancy of either dependent person or family providing care;
  - ii. Is temporary, and is to be removed upon sale or lease of property of the sponsor;
  - iii. Provides living quarters for the dependent person who is named in the permit; and
  - iv. Is not considered a use which is to be transferred with the property of the sponsor when said property is sold or leased.
- g. Before issuance of the permit, it shall be the responsibility of the sponsor to show proof of approval by the Health Authority of a wastewater disposal system for the Temporary Hardship Use.
- h. The permit for a Temporary Hardship Use shall be renewed every two (2) years by the sponsor. Failure to renew the permit or permits within the stated time period shall constitute a violation of Oneida County Zoning Ordinance. The sponsor shall pay all required fees.

#### **4G-5 Required Findings:**

- A. The proposed temporary use shall not be detrimental to the public health, safety, or welfare. The proposed use shall not adversely impact the health and safety of surrounding residents, nor shall it create undue adverse impacts on surrounding properties;
- B. The proposed temporary use complies with all applicable county ordinances;
- C. The proposed temporary use complies with all applicable federal and state regulations;
- D. The proposed temporary use and facilities shall not adversely affect or conflict with abutting uses or impede the normal development of surrounding property; and
- E. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed temporary use.

**Article H: Outdoor Assemblies:**

4H-1 Purpose

4H-2 Permit-Required

4H-3 Permit-Application-Approval or Denial

5 4H-4 Permit-Fee

4H-5 Permit-Conditions of Approval

4H-6 Approval of Other Governmental Agencies

4H-7 Health and Sanitary Facilities

4H-8 Fire Protection District Approval

10 4H-9 Distance from Habitation

4H-10 Parking Facilities

4H-11 Hours of Operation

4H-12 Traffic and Crowd Control

4H-13 Bond and Indemnification

15 4H-14 Liability Insurance

4H-15 Violation-Public Nuisance

4H-16 Violation-Penalty

**4H-1 Purpose:**

20 It is necessary for the protection of the health, safety and welfare of general public to license and regulate advertising, permitting, and conditioning of certain educational, religious, entertainment, or amusement activities which will or can be reasonably expected to disturb the ordinary peace and quiet of the inhabitants of residences, dwelling houses or other ordinary places of human habitation.

**4H-2 Permit-Required:**

25 It is unlawful for any person, persons, corporation, landowner, or lessor to allow, conduct, permit, advertise, or cause to be conducted, permitted or advertised, any entertainment, religious, educational, or amusement activity or activities outside the municipal boundaries of the incorporated cities within the county, and which activities will, or can reasonably be expected to, attract and outdoor gathering or assembly of one (1) thousand or more persons at any one time (whether or not a change or contribution is required for admission), unless a valid county permit is required for any such activity or activities

30 authorizing under any valid lease of real property owned by the county, the state or any political subdivision thereof.

**4H-3 Permit-Application-Approval or Denial:**

- 35 A. Written application for any permit to conduct the activities regulated by this section shall be made to the Board not less than sixty (60) days prior to the date upon which such activities are to commence. The application shall include:
- i. The name of the person, persons, partnership, corporation, or organization on whose behalf the application is made;
  - ii. The names and addresses of all places of all persons having any proprietary interest in such partnership, corporation, or organization;
  - 40 iii. The principal place of business of any such partnership, corporation, or organization;
  - iv. The legal description of the land to be occupied or utilized by the activities, together with the address of the owner or lessee of the land and a verified consent by the owner (if other than the applicant) permitting the activity or activities upon the real property upon the dates for which application is made;



- v. A description of the type and nature of the educational, religious, entertainment, or amusement activity or activities for which a permit is sought;
- vi. The date or dates upon which the activity or activities are proposed to be conducted; and
- vii. The maximum number of people expected to attend, view, and participate in the activity or activities on each date applied for.

B. Written notice of approval or disapproval of the application shall be given to the applicant no later than twenty (20) after the application has been filed. Any notice of denial shall state regulations, laws and/or conditions upon which denial is based and the nature of noncompliance by the applicant. Within ten (10) days after mailing of such notice, the applicant may show that such noncompliance has been remedied; upon failure of the applicant to do so, the denial shall be final and conclusive.

#### **4H-4 Permit Fee:**

The basic permit fee which shall accompany the any application under this section shall be one hundred dollars (\$100), which fee shall be retained by the county whether or not a permit is granted, denied, or withdrawn.

#### **4H-5 Permit – Conditions of Approval:**

Permits shall be issued under this chapter only when the conditions enumerated in section 4H-12 through 4H-14 have been fulfilled by the applicant.

#### **4H-6 Approval of Other Governmental Agencies:**

Whenever approval by any governmental agencies is required under this section, the applicant for such approval shall be required to cooperate fully with the agency to ensure that a full review of the proposals may be accomplished by the agency within the twenty-day (20) time limit set out in section 4H-3. When any type of physical activity is required or subject to approval under this section, a permit may be granted (subject to withdrawal) based upon specific plans being proposed, submitted, and approved under this section. All such facilities constructed under authority of the permit shall be in existence at least five (5) days prior to commencement of the activity or activities for which the permit is granted and shall be subject to inspection by the approving agency or agencies. Should the actual facility or construction fail to meet the standards approved in the proposed plans, the permit may be withdrawn. Withdrawal shall be affected by mailing of written notice to the address of the applicant specifying the reasons for withdrawal.

#### **4H-7 Heath and Sanitary Facilities:**

No permit shall be granted under this section unless the applicants obtain the written approval of the county physician and the county health officer duly and regularly appointed by the Board, pursuant to Idaho Code Section 39-01, which approvals shall indicate that the applicants for the permit have complied with all rules, regulations, laws and ordinances of the State Board of Health, the county board of health, that state and the county sanitary codes. Such approval shall indicate the type and adequacy of toilet, waste collection and washing facilities to be provided, and if there is to be food or drink served on the premises, the type and adequacy of food and drink service and facilities to be furnished.

**4H-8 Fire Protection District Approval:**

No permit shall be granted under this section unless the Board has received written approval of the fire protection district in which the proposed activity or activities are to be held. The approval shall indicate that the application has complied with all applicable fire prevention regulations, laws, and requirements and shall state the manner in which the applicant has complies therewith.

**4H-9 Distance from Habitation:**

No permit shall be granted for any activity or activities regulated under this section which are proposed to be held within one thousand (1,000) yards of any schoolhouse or church, or within five hundred (500) yards of any occupied house or residence or other place of human habitation; provided however, that such restriction with respect to occupied houses, residences, and other places of human habitation may be waived upon proof by the applicant that the occupants of such places have given their written consent to the conduct of such activity or activities.

**4H-10 Parking Facilities:**

No permit shall be granted for any activity or activities regulated under this section unless the applicant shows to the Board, by means of a scale drawing that adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. The parking facilities shall provide parking space for one (1) vehicle for each four (4) persons expected or reasonable expected to attend, view or participate in the proposed activity or activities. The parking facilities shall be provided off public roads or highways and adequate ingress and egress shall be provided to and from the parking areas.

**4H-11 Hours of Operation:**

No permit issued under this section shall authorize any activity or activities regulated by this section between the hours of 12:01 AM and 9:00 AM of any day; the permit shall specify on its face the day, or days, and hour within which the activity or activities may be held.

**4H-12 Traffic and Crowd Control:**

A. No permit shall be granted under this section unless the applicant has obtained the written approval of the County Sheriff, indicating that the following conditions have been complied with:

- i. That adequate traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant;
- ii. That traffic and crowd control personnel shall be named persons deputized by the County Sheriff, or meeting the criteria for becoming deputized;
- iii. That the applicant will provide at least one (1) traffic control officer for each two hundred fifty (250) persons expected or reasonably expected to be in attendance at any one (1) time during the event;

B. If any time during the event the size of the crowd exceeds by twenty percent (20%) the number of persons represented by the applicant as expected to be in attendance, the Sheriff shall have the discretion to require limitation of further admissions.

**4H-13 Bond and Indemnification:**

No permit shall be issued under this section unless the applicant has on deposit with the County Treasurer a cash or surety bond as set out in this section indemnifying the county for costs incurred by reason of the expenses of extraordinary law enforcement, damage to public property, or the costs of providing extraordinary sanitation or health services provided or caused by the holding of the activity or activities for which the permit is applied for. The amount of the bond shall be five hundred dollars (\$500) for gatherings where the total attendance is expected to be less than five thousand (5,000) persons



and such amount shall be increased increments of two-thousand five hundred dollars (\$2,500) for each additional two thousand five hundred persons (2,500) persons expected. The bond or its balance shall be exonerated or returned when the Board certifies to the County Treasurer that either (A) no damage has been done and (B) the total of such costs or damage in the event such items total less the bond amount.

#### **4H-14 Liability Insurance**

No permit shall be issued under this section unless the applicant has furnished evidence of liability insurance coverage providing a minimum of one hundred thousand dollars (\$100,000) bodily injury coverage per person, three hundred thousand dollars (\$300,000) bodily injury coverage per occurrence, and one hundred thousand dollars (\$100,000) property damage coverage, which policy shall name the county as additional insured.

#### **4H-15 Violation – Public Nuisance**

Noncompliance with the minimum health, sanitation, and safety provisions required in this section, or failure to comply with the terms and conditions of this section, constitutes a public nuisance, and the person or persons responsible therefore shall be subject to all criminal and civil remedies for such.

#### **4H-16 Violation – Penalty**

Any person who violates or fails to comply with any of the provisions of this section or who, having obtained a permit under this section, willfully fails to continue to comply with the conditions set forth in this section, is guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not to exceed three hundred dollars (\$300), or by imprisonment in the county jail for a period not exceeding six (6) months, or by both fine and imprisonment.

## **Article I: Street Naming and Address Numbering**

4I-1 Purpose and Applicability

4I-2 Approvals Required

4I-3 Designations of Road Names

5 4I-4 Private Roads

4I-5 Subdivisions

4I-6 Changes in Road Names

4I-7 Road Address Numbering

4I-8 Variances

10 4I-9 Violations

### **4I-1 Purpose and Applicability:**

The purpose of providing a uniform street name and addressing milepost system is to aid local emergency vehicles and utility companies and for the proper administration and enforcement of these systems. This Section shall apply to all lands within unincorporated areas of Oneida County.

### **15 4I-2 Approvals Required:**

A. Before any road is named, approval shall be obtained from the Board. Any address numbers shall be assigned and approved by the Planning and Zoning Department or its designee. Official road names shall be maintained on an Official Road Name Map and Official Road Name List filed in the office of the Planning and Zoning Department or a designee of the Board.

20 B. If, in any instance, the Planning and Zoning Department or its designee fails to act or carry out its responsibilities according to the requirements contained herein, the Board may assume the duties of the Planning and Zoning Department, as herein specified.

### **4I-3 Designation of Road Names:**

25 A. It is hereby established in the unincorporated areas of Oneida County that the following rules and regulations for the naming of roads shall apply. The Board shall, by Resolution, establish the Official Road Name List. Thereafter, all new roads shall be established in accord with the standards hereinafter set forth.

B. The following standards shall be used in determining and approving road names:

1. There shall be no duplication of road names by sound or spelling in Oneida County.
- 30 2. Differentiation shall not be by the addition of suffixes, such as road, lane, etc.
3. Names of future road dedications, whether public or private, shall be submitted by the person or agency proposing the road dedication to the Planning and Zoning Department as staff for the Board, subject to all provisions of this Section.
- 35 4. A proposed road shall be considered in general alignment with an existing road, if it is no farther than 150-feet (150') from the centerline to centerline. Where a proposed road is in the same alignment as an existing road and is a continuation of that road, the name of the existing road shall be maintained with the appropriate designation.



5. Where a proposed road connects two (2) differently named roads located on the same alignment, the County shall designate the name of the proposed road, giving consideration to the length, collector status, period of usage and number of residents affected.
- 5 6. A cul-de-sac which has an overall length of more than 100-feet (100') (as measured from the centerline of the principal road to the point of radius) shall carry a new name and must be named in accordance with the provisions herein.
7. Both portions of an "L" shaped road shall carry the same name if either leg is 100-feet (100') or less in length, all other L-shaped segments shall carry two (2) names.
- 10 8. In general, road names shall not be over thirteen (13) letters in length including spaces, unless otherwise approved by the Board. All road names shall conform to this limitation except where existing names are to be continued due to alignments. Road names which are difficult to pronounce, or spell shall not be accepted.
9. Any lack of compliance for the initial maps and road names adopted shall be permitted.

#### **4I-4 Private Roads:**

- 15 A. Applications for private road names shall be subject to approval by the County. Designated private road names shall be listed on the Official Road Name List. Private road names shall be in compliance with this Section.
- 20 B. The County shall install and maintain private road signs within the public right-of-way and shall only install signs for those private roads which intersect public roads. The applicant will be charged a fee by the County to manufacture and install said signs. Required interior private road signs for mobile home/manufactured home courts, etc. shall not be installed or maintained by the County. In those cases, the applicant shall obtain the road signs from the County at a fee set by the Board and shall be responsible for their installation and maintenance. Private road signs shall conform to the standards of Section 4I-6(E) in both cases.

#### **4I-5 Subdivisions:**

- 25 A. Proposed subdivision road names shall be shown on all preliminary and final subdivision plats when submitted to the Planning and Zoning Commission for review. No preliminary or final plat shall be approved until the road names have been reviewed and approved by the County, after being checked against the Official Road Name List for possible duplication or other violations of this Section.
- 30 B. All half-roads or partial roads shall be named in accordance with the provisions of this Section.
- C. No plat shall be approved by the Board for recording until all provisions of this Section have been met.
- 35 D. It shall be the responsibility of any subdivider creating a new road to finance the cost of installing said road name signs at each and every designated location. Road name signs shall conform to the County's sign specification requirements.

#### **4I-6 Changes in Road Names:**

- 40 A. Where necessary or desirable, any person may make application to the County to change a road name. The County may also initiate a road name change at its sole discretion for reasons of duplication, similar pronunciation, or spelling or for other reasons for public safety or convenience.
- B. In the case of road name changes necessitated due to duplication, similar pronunciation or spelling, the County shall determine the road name to be changed and select the new name to be used. The County shall take into consideration the number of existing addresses on the roads

in question, the length of time each road has used the name in question, the date of the original dedication of said road(s), each road's compliance with this Section and any other factor pertinent to resolving the similar pronunciation or spelling. No road name(s) may be changed until the proposed names have been checked against the Official Road Name Map and List and approved by the Board.

C. The Board may be petitioned to change a road name by all property owners signing a petition to do so or the Board may hold a public hearing on this matter. If a public hearing is set, all property owners and residents having frontage on the affected road shall be notified by mail under the following procedure:

1. The applicant shall submit a list of addresses of all dwellings located on the affected road to the County.
2. The County shall mail notification to all affected residents and property owners and post a notice on location.
3. Failure of the County to mail notice to all residents and property owners in no way shall affect the validity of such procedures.

D. All proposed changes to road names will consider inconvenience to residents and property owners in the area. All residents and property owners shall be mailed notification of the Board's final decision.

E. All road name signs shall be located in such a manner as to be clearly visible to persons operating vehicles on the road. The minimum letter size shall be four inches (4") in height and placed on a six-inch (6") by variable length (6" x variable length) blank. Existing names exceeding the ten (10) letter length restriction shall use three-inch (3") lettering, if deemed necessary by the Board. All signs shall be reflectorized lettering in addition to having contrasting colors. All public road signs shall be blue with white lettering. Private road signs shall be white with black lettering. All road name signs shall have the names lettered on both sides and shall be positioned so that the name is visible from both directions of the road.

#### **4I-7 Road Address Numbering:**

A. All road address numbers shall conform to the milepost system as much as possible which is shown on the Official Rural Addressing System Map approved by the Board. The general standards to be used in developing a road address milepost system are as follows:

1. Federal and State Highways. Point of reference on these roads will be milepost markers. Individuals whose residences or business is adjacent to these roads will be numbered from the milepost markers to the nearest hundredth mile.
2. County and Private Roads. Point of reference for these roads will be at the beginning point of the road. As with federal and state roads, the address for individuals located on these roads will be to the nearest hundredth mile.

B. All address numbers located within the unincorporated and city impact areas of Oneida County will be assigned by the County. No other persons or organization, public or private, shall assign, and address number to any residence, business, industry, or other use. Addresses located inside the city limits of Malad City shall be issued by the appropriate city designee.

The following shall be used as a guide in assigning such address numbers by the County:

1. Only one number shall be assigned to each business, dwelling unit, or other use.



2. Numbers shall be assigned to vacant lots within platted subdivisions and shall be assigned in such a manner that adequate numbers are reserved for possible future development or re-subdivision of such land.

3. All addresses shall be assigned on the road upon which the structure's driveway for the structure originates.

4. All addresses located on the north and east sides of the roads shall be odd numbers. All addresses on the south and west sides of roads shall be even numbers. These requirements may be varied in the case of meandering roads. When a road has been determined to be running in predominately one direction, the number shall not be changed if there is slight change in road direction.

C. Approved street address numbers shall be mounted or painted on all new and existing buildings in such a position as to be plainly visible and legible from the road fronting the property. Said numbers shall be reflective, contrast with their background, be visible in the daytime and nighttime from the road, and be at least three and one-half inches (3 ½") in height. Where the building is not visible from the road, an additional address number shall be placed in a location near the driveway that is plainly visible and legible from the road. House numbers and plaques may be obtained from the Planning and Zoning Department at a cost set by the Board.

D. Existing address numbers not in conformance with the Official Rural Addressing Map may be changed by order of the Board, giving official written notice at least ninety (90) days in advance of the effective date of such change to the property owners and those local agencies affected by such change.

#### **4I-8 Variances:**

##### **A. Process:**

1. An application and fees shall be submitted to the Administrator on forms provided by the development services department.

2. The Board shall apply the standard listed in Subsection B of this section and the findings listed in Subsection C of this section to review the variance.

B. Standard: The variance shall comply with Idaho Code section 67-6516.

C. Required Findings: In order to grant a variance, the Board shall make the following findings:

1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base district;

2. The variance relieves an undue hardship due to characteristics of the site; and

3. The variance shall not be detrimental to the public health, safety, and welfare.

#### **4I-9 Violations:**

A. No person shall erect or install a road name sign which does not comply with this Section.

B. No person shall remove, alter, change, or otherwise deface a road name sign which exists in accordance with the Official Road Addressing System Map(s) and this Section.

C. Failure to continuously display the approved number or address on a residence or business shall be a violation of this Section.

**Article J: Building Regulations**

4J-1 Purpose

4J-2 Building Codes Adopted

4J-3 Building Permit Required

5 4J-4 Exemption

4J-5 Permit Fees

4J-6 Application

4J-7 Permit Revocation

4J-8 Expiration/Revocation of Permit

10 4J-9 Certificates of Occupancy and Letters of Completion

**4J-1 Purpose:**

15 The purpose of this Section is to provide procedures minimum standards and requirements to safeguard life or limb, health, property and public welfare, by regulating and controlling, the design, construction, erection, alteration, moving, demolition, quality of materials, use and occupancy, location and maintenance of all buildings and structures located within unincorporated Oneida County.

**4J-2 Building Codes Adopted:**

A. Adoption: The approved editions of the following nationally recognized codes, as adopted by the State of Idaho, are adopted as the official building codes of Oneida County:

- 20 1. International Building Code, including all rules promulgated by the Idaho Building Code Board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines.
2. International Residential Code, parts I-IV and IX.

25 The adopted versions of the foregoing codes shall be deemed superseded by successive versions of such codes as they are adopted or approved by the Idaho Building Code Board effective on the date any such codes are made effective by the Idaho Building Code Board.

30 B. Agricultural Building Exemption: Structures or buildings, that meet the definition of Agricultural Building and are constructed and located in an Agricultural or Rural Residential Zone (or granted a conditional use permit in a Commercial Zone) on a parcel that qualifies for an agricultural exemption, as set forth below, shall only be required to obtain a permit pursuant to this Subsection.

A parcel or tract of land that is more than five (5) contiguous acres, and is actively devoted to agriculture, is eligible for an agricultural exemption when meeting the following criteria:

- 35 1. It is used to produce field crops including, but not limited to, grains, feed crops, fruits and vegetables;
2. It is used to produce nursery stock as defined in Idaho Code, Section 22-2302;
3. It is used by the owner for the grazing of livestock to be sold as part of a net profit-making enterprise, or is leased by the owner to a bona fide lessee for grazing purposes;
- 40 and/or
4. It is in a cropland retirement or rotation program.

A building that qualifies for an agricultural exemption must still submit an application for a



zoning/building permit for siting purposes to assure road and property line setbacks, but is exempt from full building permit, building code requirements, and associated inspections, except for as provided below.

Any person or organization applying for an agricultural exemption must allow an inspection of the building by the building official, the Oneida County Assessor's Office, or an authorized representative of the Planning and Zoning Department for the duration of the permit, during any construction of said building, and/or for a period of two years after the completion of the agricultural building, whichever is latest. A request for an inspection must be made in writing to the owner of record and must be delivered via certified mail or in person. This inspection shall only be for the purpose of ensuring that the building is in compliance with this exemption. An application for an agricultural exemption shall constitute a waiver of any right to deny an inspection pursuant to this section. Failure to allow an inspection within three (3) days of service of a written request pursuant to this section shall be a violation of this Ordinance.

#### **4J-3 Building Permit Required:**

It is unlawful for any person, firm, or corporation to erect, construct, install any building, structure, or manufactured/mobile home or make any major structure modification as defined, to a building or structure without first obtaining from the Oneida County Planning and Zoning Office a building permit which said permit is the authority to commence construction or installation.

#### **4J-4 Exemption:**

Uninhabited Structures less than two hundred (200) square feet in size do not require Building Permits and are exempt from this Ordinance.

#### **4J-5 Permit Fees:**

Except as otherwise specified, all building permit fees shall be set by resolution of the Board of Commissioners. Permit fees are non-refundable except as approved by the Board of County Commissioners.

#### **4J-6 Application:**

Application for Building Permits shall be on forms as determined by the Administrator, and the applicant shall be required to produce an approved Southeastern Idaho Public Health Permit for the project and compliance with this ordinance. The following project information shall be included with the building permit application:

- a. Name, address, and telephone number of applicant.
- b. Proof of ownership.
- c. Legal description of the property.
- d. Solid waste disposal method.
- e. School district.
- f. Fire department.
- g. Proposed utilities including, electricity, telephone, water, sanitary wastewater treatment.
- h. Development plans showing:
  - i. Property boundaries.
  - ii. Location and dimensions of all buildings; setback dimensions and heights.
  - iii. Access to road(s).

iv. Application fees.

**4J-7 Permit Revocation:**

In case of violation of any of the provisions, or any uncorrected inspection discrepancies identified by the Building Official, or further regulations of the 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 their authorized representative, may declare the permit revoked and shall not be issued another permit until said violation has been corrected. Any revocation may be appealed to the Board of Commissioners within fifteen (15) days from the date notice of revocation is given to permittee.

**4J-8 Expiration/Revocation of Permit:**

Every permit issued by the provisions of this ordinance shall expire by limitation, and become null and void, if work on the proposed project is not commenced within one hundred eighty (180) days from the date of issuance of the permit. Once the Applicant commences work on the project, work must progress at a reasonable rate of at least twenty five percent 25% per year as determined by the Building Official. Activity for which the building permit was issued shall be completed within four (4) years of the date of issuance for the permit. The Building Official shall revoke the permit of any Applicant who fails to progress on the work of their proposed project at a reasonable rate or suspends or abandons the work authorized by the permit at any time for a period of three hundred sixty-five (365) days. Should the applicant disagree with the Building Official's decision that a reasonable amount of work has not occurred, the applicant at his/her own expense may order an independent inspection from a State Certified Building Inspector to verify compliance with this Section; if the Inspector confirms the Building Official's finding of non-compliance, a new permit shall be required.

**4J-9 Certificates of Occupancy and Letters of Completion:**

1. Certificate Of Occupancy Required: It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof thereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued therefor by the Administrator stating that the proposed use of the building or land conforms to the requirements of this title and with all conditional provisions that may have been imposed.
2. Temporary Certificate of Occupancy: A temporary certificate of occupancy may be issued by the Administrator for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

**4J-10 Unlawful Acts:**

1. Failure to Obtain Permit Or Certificate: Failure to obtain a zoning permit, building permit, or certificate of occupancy shall be a violation of this title.
2. Use and Construction Contrary To Plans: Zoning permits, building permits, or certificates of occupancy issued on the basis of plans and applications approved by the Administrator or Building Official authorize only the use and arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangement or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this title.



**Article K: Surety Agreements:****4K-1 Surety Deposit****4K-2 Release of Surety****4K-1 Surety Deposit:**

5 A. In lieu of completion of improvements, or any portion thereof, required by this ordinance, the owner may deposit a surety and sign a surety agreement for completion of such improvements. The surety and surety agreement shall be deposited with the Administrator on forms provided by the Administrator. The surety shall be provided prior to the Board signing the final plat.

10 1. A. Cash Deposit, Certified Check, or Irrevocable Bank Letter of Credit: A cash deposit, certified check, or an irrevocable bank letter of credit (issued by a local bank), in the amount equal to one hundred fifty percent (150%) of the estimated construction costs of public improvements shall be provided by the owner/developer and held by the city until said construction is complete. Construction cost estimates shall be reviewed and approved by the Administrator prior to acceptance of said surety. The surety initiation and extension fees shall be established by resolution of the Board of County Commissioners.

20 In the case of cash deposits or certified checks, an agreement between the Board of County Commissioners and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

B. The amount of surety called for shall be equal to not less than one hundred fifty percent (150%) of the cost of completing the required improvements. The estimated cost shall be provided by the applicant and reviewed and approved by the County Engineer.

25 C. In all cases the surety shall be drawn solely in favor of, and payable to, the order of the County of Oneida, in accord with the regulations contained in the surety agreement by and between the guarantor and the County of Oneida.

**4K-2 Release of Surety:**

Where a surety is accepted by the Administrator and deposited as provided in Section 4K-1 of this Article, the surety shall be released subject to the following regulations:

30 A. The owner shall submit a written request to the Administrator to return the surety. The request shall include the following documents:

1. A statement from the owner that the required improvements are complete.

2. Two (2) sets of prints of the as-built plans and specifications for all improvements.

35 B. The County Engineer shall verify and certify that the required improvements, as detailed in the surety agreement, have been installed. The as-built plans shall be reviewed and approved by the county engineer.

40 C. Upon certification of the County Engineer, the Administrator shall give notice to the County Treasurer to release the sureties heretofore deposited with said County Treasurer in the manner and to the extent as provided for in the surety agreement in accord with the regulations of Section 4K-1 of this Article.

## Chapter 5 Specific Use Standards

- Section 1 Purpose
- 5 Section 2 Applicability
- Section 3 Specific Use Standards
- Section 4 Concept Plan Requirements

### **Article A Conditional Uses**

#### **10 5-1 Purpose:**

- A. This chapter provides specific standards for all uses as set forth within the zoning base district or overlay district.
- B. Article A of this chapter sets forth the procedures and required findings for conditional uses.

#### **5-2 Applicability:**

- 15 These regulations apply to any property in unincorporated Oneida County where the specific use is listed as a permitted or conditional use or otherwise allowed by an overlay district.

#### **5-3 Specific Use Standards:**

These standards are in addition to the requirements of Chapter 4, of this ordinance, regulations applying to all districts.

- 20 5-3-1 Accessory Dwelling Unit
- 5-3-2 Accessory Structure
- 5-3-3 Agricultural Building
- 5-3-4 Agricultural Use
- 5-3-5 Aircraft Landing Field (Private Ownership)
- 25 5-3-6 Airport (Public Ownership)
- 5-3-7 Amusement or Recreation Facility (Indoor)
- 5-3-8 Amusement or Recreation Facility (Outdoor)
- 5-3-9 Animal Boarding with Outside Runs
- 5-3-10 Animal Clinic, Animal Hospital, or Veterinary Office
- 30 5-3-11 Asphalt or Concrete Ready Mix Plant
- 5-3-12 Automobile or Recreational Vehicle Sales or Service
- 5-3-13 Automobile, Major Repair
- 5-3-14 Automotive, Hobby
- 5-3-15 Bar, Brewpub, or Nightclub
- 35 5-3-16 Bed and Breakfast Establishment
- 5-3-17 Boarding House
- 5-3-18 Brewery or Distillery
- 5-3-19 Campground
- 5-3-20 Car Wash
- 40 5-3-21 Cemetery
- 5-3-22 Children's Treatment Facility
- 5-3-23 Church



- 5-3-24 Club or Lodge or Social Hall
- 5-3-25 Composting Facility (Commercial)
- 5-3-26 Contractor's Yard or Shop
- 5-3-27 Crematory
- 5 5-3-28 Dangerous or Protected Animals
- 5-3-29 Daycare Center, Family Daycare Home, Group Daycare Facility
- 5-3-30 Drive-Up Window Service
- 5-3-31 Drug and Alcohol Treatment Facility
- 5-3-32 Explosive Manufacturing or Storage
- 10 5-3-33 Farm, Garden, Lumber, or Building Supply Store
- 5-3-34 Fence: Barbed Wire, Electric Wire or Other
- 5-3-35 Flammable Substance Storage
- 5-3-36 Foster Home, Group
- 5-3-37 Gasoline, Diesel or Alternative Fuel Sales Facility
- 15 5-3-38 Golf Course and Country Club
- 5-3-39 Heavy Equipment Sales or Service
- 5-3-40 Home Occupation
- 5-3-41 Hospital
- 5-3-42 Hotel or Motel
- 20 5-3-43 Junkyard or Automotive Wrecking Yard
- 5-3-44 Kennel, Commercial
- 5-3-45 Laundromat
- 5-3-46 Livestock Confinement Facility
- 5-3-47 Manufacture or Processing of Hazardous Chemicals or Gases
- 25 5-3-48 Manufactured Home
- 5-3-49 Manufactured Home Park
- 5-3-50 Mortuary
- 5-3-51 Nursery, Wholesale or Retail
- 5-3-52 Nursing Facility, Skilled
- 30 5-3-53 Office (Temporary Construction)
- 5-3-54 Outdoor Storage
- 5-3-55 Outdoor Storage Building
- 5-3-56 Pit, Mine, or Quarry
- 5-3-57 Power Facility, Centralized Power Facility, Distributed Power Facility, Electric Distribution Line,
- 35 Electric Subtransmission Line, and Electric Transmission Line and Substations
- 5-3-58 Public or Quasi-Public Use
- 5-3-59 Racetrack, Vehicle or Animal
- 5-3-60 Recreational Vehicle Park
- 5-3-61 Recycling Center
- 40 5-3-62 Recycling Plant
- 5-3-63 Residential Care Facility
- 5-3-64 Retail Sales, Relating to an Approved Use
- 5-3-65 Roadside Produce Stand
- 5-3-66 Sanitary Landfill Restricted

- 5-3-67 Sawmill or Planing Mill
- 5-3-68 School, Public or Private
- 5-3-69 School, Vocational or Trade
- 5-3-70 Shooting Range
- 5 5-3-71 Slaughterhouse
- 5-3-72 Soil or Water Remediation
- 5-3-73 Stable or Riding Arena (Commercial)
- 5-3-74 Storage Facility (Self-Service)
- 5-3-75 Tower or Antenna Structure (Commercial)
- 10 5-3-76 Tower or Antenna Structure (Private)
- 5-3-77 Vehicle Impound Yard
- 5-3-78 Welding Shop
- 5-3-79 Winery

15 **5-3-1: Accessory Dwelling Units:**

A. General Standards:

- 20 1. An existing principal single-family dwelling shall exist on the lot or parcel or shall be constructed and shall obtain an occupancy permit prior to or in conjunction with the accessory unit. This principal single-family dwelling shall constitute the "principal dwelling unit" as used in this Section A.
- 25 2. The minimum lot size for the inclusion of an accessory dwelling unit is one (1) acre or greater unless otherwise approved as part of a development agreement or PUD. The maximum size of the accessory dwelling unit shall not exceed twelve hundred square feet of living space. In determining the square footage of the principal dwelling unit for the purposes of this section, the area of any garage or cold storage space of the principal dwelling unit shall not be considered. Further, the maximum height of the accessory dwelling unit shall not exceed the height of the principal dwelling unit.
- 30 3. Accessory dwelling units may only be located to the rear or side of the principal dwelling unit and shall not be located in front of the front plane of the principal dwelling unit unless otherwise permitted as part of a development agreement or PUD approval.
- 35 4. Accessory dwelling units must comply with all required setback and lot coverage limitations for the principal dwelling unit for the underlying zone.
5. Detached accessory dwelling units shall meet minimum building separation standards as described in the building code.
- 40 6. To ensure compliance with the requirements of this section, when accessory dwelling units are an allowed use, they shall require approval from the Planning and Zoning Administrator, or a Conditional Use Permit, as may be required, prior to the issuance of a building permit.
7. Only one accessory dwelling unit shall be allowed for each parcel on which a principal dwelling unit is located.
8. Exterior design of the accessory dwelling unit will be compatible with the principal dwelling unit on the lot and not detract from the single-family appearance of the lot or obscure and confuse the front entrance of the principal dwelling unit.
9. Accessory dwelling units shall comply with the off-street parking requirements.



10. The building entrance to the accessory dwelling unit shall not be permitted to face toward the street unless the accessory unit is located completely behind the rear plane of the principal dwelling unit.

11. An accessory dwelling unit shall not be sold separately from the principal dwelling unit. Further, a division of a parcel in which the locations of a principal dwelling unit and an accessory dwelling unit will be on separate recorded parcels and/or deeds shall not be permitted.

12. Unless connected to a city water source, an accessory dwelling unit shall share a well with the principal dwelling unit, and no accessory dwelling unit shall be allowed to have a separate well from the principal dwelling unit.

13. An accessory dwelling unit may not have a separate driveway or road entrance from the principal dwelling unit.

#### **5-3-2: ACCESSORY STRUCTURE:**

##### **A. General Standards:**

1. A structure accessory to a residential use shall not be used for commercial, residential, or industrial purposes. This does not prohibit accessory dwelling units pursuant to 5-3-1.
2. The accessory structure shall not be used to store commercial vehicles, except one (1) commercial vehicle may be stored on the property provided it is operated by the owner or occupant of the property for their day-to-day work.

##### **B. Location Standards: The location of accessory structures shall be restricted as follows:**

1. Accessory structures shall not be located in any required setbacks or on any publicly dedicated easements.

##### **C. Height Standards: The height of an accessory structure shall be restricted as follows:**

1. An accessory structure shall not exceed a height of thirty-five feet (35').

#### **5-3-3: AGRICULTURAL BUILDING:**

A. The structure and siting thereof shall follow all the requirements of 4J-2(B).

B. The structure shall meet the definition of "Agricultural Building" as defined herein.

C. Human habitation of an Agricultural Building is expressly forbidden and shall be a violation of this Ordinance. Further, any owner of an Agricultural Building that permits such habitation shall also be in violation of this Ordinance.

#### **5-3-4: AGRICULTURE USE:**

The use shall be conducted on a "farm" as herein defined. The application of fertilizer or process wastewater at agronomic rates shall be deemed a component of the agricultural use

#### **5-3-5: AIRCRAFT LANDING FIELD (PRIVATE OWNERSHIP):**

A. Prior to application, the applicant or owner shall receive airspace approval from the federal aviation administration.

B. The runway design shall comply with the design and construction standards and recommendations in the federal aviation administration handbook entitled "Airport Design", advisory circular 150/5300-13.

C. If applicable, the applicant shall provide verification of compliance with the regulations and requirements of the following agencies:

1. Federal Aviation Administration.
2. Idaho Transportation Department (Bureau of Aeronautics).
- 5 3. Idaho Military Division-National Guard.

D. Any accessory uses including, but not limited to, fuel storage areas, structures or facilities for storing and maintenance of aircraft, and any outdoor storage or tie down areas shall be included on the site plan for the aircraft landing field.

- 10 E. As applicable, the applicant shall obtain written approval for fuel tanks from Idaho Division of Environmental Quality, Idaho Department of Water Resources, and the appropriate fire authority.

**5-3-6: AIRPORT (PUBLIC OWNERSHIP):**

A. If applicable, the applicant shall provide verification of compliance with the regulations and requirements of the following agencies:

1. Federal Aviation Administration.
- 15 2. Idaho Transportation Department (Bureau of Aeronautics).
3. Idaho Military Division-National Guard.

B. The proposed airport shall meet the design standards of the Federal Aviation Administration for the particular class or field.

**5-3-7: AMUSEMENT OR RECREATIONAL FACILITY (INDOOR):**

20 *(Reserved)*

**5-3-8: AMUSEMENT OR RECREATIONAL FACILITY (OUTDOOR):**

A. General Standards:

1. All structures or outdoor recreation areas shall maintain a minimum setback of one hundred feet (100') from all abutting residential subdivisions.
- 25 2. All outdoor activities and events shall be scheduled so as to complete all activity before or as near to nine thirty o'clock (9:30) P.M. as practical. Illumination of the outdoor amusement or recreation facility shall not be permitted after ten o'clock (10:00) P.M. except to conclude a scheduled event that was in progress before ten o'clock (10:00) P.M. and circumstances prevented concluding before ten o'clock (10:00) P.M. All illumination shall be terminated no later than one hour after conclusion
- 30 of the event.

B. Golf Driving Range: Accessory sales and rental of golf equipment shall be allowed. The golf driving range shall be designed to protect abutting property and roadways from golf balls.

C. Swimming Pool: Any outdoor swimming pool shall be completely enclosed within a six foot (6') barrier that meets the requirements of the building code as adopted by the State of Idaho.

- 35 D. Outdoor Shooting Range: See Section 5-3-70 of this chapter for outdoor shooting range standards.

**5-3-9: ANIMAL BOARDING WITH OUTSIDE RUNS:**

A. A six hundred foot (600') separation shall be maintained between the area and structures where animals are housed and any property line.

- 40 B. Outside runs for commercial kennels shall be operated only with an attendant present on the premises twenty four (24) hours a day.



C. Adequate fencing shall be provided to restrain animals from running at large. At a minimum, the animals shall be enclosed within a six foot (6') fence or wall. Electronic fences shall not be used as the sole method of restraining animals.

5 D. Five percent (5%) of the building floor area, excluding the kennel area, may be used for related retail sales.

E. A grooming facility is allowed, but not to occupy more than thirty five percent (35%) of the building floor area, excluding the kennel area.

**5-3-10: ANIMAL CLINIC, ANIMAL HOSPITAL, OR VETERINARY OFFICE:**

The facility shall comply with all county and state regulations relative to such use.

10 **5-3-11: ASPHALT OR CONCRETE READY MIX PLANT:**

A. Asphalt mixing and concrete batching may only be allowed as accessory uses to a pit, mine, or quarry. See Section 5-3-54 of this chapter.

B. Any structure or equipment shall be a minimum of one thousand feet (1,000') from any dwelling other than the dwelling of the owner or caretaker of the subject property.

15 C. Outdoor storage areas shall comply with Section 5-3-54 of this chapter.

**5-3-12: AUTOMOBILE OR RECREATIONAL VEHICLE SALES AND SERVICE:**

A. The use shall not constitute a junkyard.

B. All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.

20 C. Outdoor storage of accessories, replacement parts, or discarded parts shall comply with Section 5-3-54 of this chapter.

D. Inoperable or dismantled motor vehicles shall be stored behind a sight obscuring fence, wall, or screen or within an enclosed structure and shall not be visible from any street or private road.

**5-3-13: AUTOMOBILE, MAJOR REPAIR:**

25 A. The use shall not constitute a "junkyard" as herein defined.

B. All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.

C. Outdoor storage of accessories, replacement parts, or discarded parts shall comply with Section 5-3-54 of this chapter.

30 D. Inoperable or dismantled motor vehicles shall be stored behind a sight obscuring fence, wall, or screen or within an enclosed structure and shall not be visible from any street or private road.

**5-3-14: AUTOMOTIVE, HOBBY:**

It is the intent of this regulation to allow for restoration, maintenance, and/or preservation of motor vehicles as a hobby. The following standards shall apply:

35 A. There shall be no wholesale or retail sale of automotive parts or supplies.

B. There shall be no commercial restoration, repair, or maintenance of motor vehicles.

C. The site for an automotive hobby shall be maintained in an orderly manner so as not to create a public nuisance.

40 D. Not more than two (2) inoperable, dismantled, or unregistered motor vehicles may be visible from any street or private road. All other inoperable, dismantled, or unregistered motor vehicles shall be stored: 1)

in the rear or side yard behind a sight obscuring fence, wall, or screen that is not less than six feet (6') in height, or 2) within a completely enclosed structure.



**5-3-15: BAR, BREW PUB, OR NIGHT CLUB:**

A. The facility shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages.

B. The bar, brew pub, or nightclub shall not be located within three hundred feet (300') of a church or school property.

C. For properties abutting a residential area, no outside activity or event shall be allowed on the site, except as provided for in Chapter 4, Article G, "Temporary Use", of this ordinance.

**5-3-16: BED AND BREAKFAST ESTABLISHMENT:**

A. The minimum property size for a bed and breakfast establishment shall be one (1) acre.

B. Any such facility shall be an owner occupied dwelling. For the purposes of this subsection, an "owner" shall be defined as a person with a fifty percent (50%) or greater interest in the bed and breakfast establishment.

C. If remodeling an existing structure, the exterior appearance of the structure shall be that of a single-family dwelling. Fire escapes and other features may be added to protect public safety; however, structural alterations may not be made that would prevent future use of the structure as a single-family dwelling.

D. No more than ten (10) occupants (including, but not limited to, the owner, the owner's family, and any resident or nonresident employees) shall be permitted to occupy the facility at any one time (daytime, evening, or night).

E. The maximum stay shall be two (2) weeks for any guest.

F. Breakfast shall be served on the premises only for guests and employees of the facility. No other meals shall be provided on the premises. Guestrooms may not be equipped with cooking facilities including, but not limited to, stoves, hot plates, or microwave ovens.

G. Only business signs referring solely to a principal permitted use of the bed and breakfast are permitted.

**5-3-17: BOARDING HOUSE:**

No more than ten (10) occupants (including any resident staff and family) shall be permitted to occupy any such facility at one time.

**5-3-18: BREWERY OR DISTILLERY:**

The facility shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages.

**5-3-19: CAMPGROUND:**

A. Access: The campground site shall have access from an arterial, collector, or forest service road.

B. Design Standards:

1. The applicant shall indicate the specific location of each proposed cabin, campsite, or recreational vehicle space on the site plan.
2. A fifty foot (50') landscaped setback with protective screening or fencing shall be required on property boundaries adjacent to a public right of way. Those property boundaries abutting private property shall require a landscape setback of fifty feet (50') with protective fencing.
3. A three-hundred-foot (300') separation shall be maintained between any outdoor activity area (including campsites and recreation facilities) and any residential area.

4. A fire mitigation plan shall be submitted for review and approval prior to opening the campground.

C. Accessory Uses: Accessory uses including, but not limited to, management headquarters, recreational structures, coin operated laundry facilities, toilets, and showers may be allowed, subject to the following restrictions:

1. Such uses shall be restricted in their use to occupants of the campground.
2. Such uses shall present no visible evidence of their commercial character to attract customers other than occupants of the campground.
3. The structures enclosing such uses shall not be located closer than one hundred feet (100') to any public street and shall not be directly accessible from any public street, but shall be accessible only from a drive within the campground.

D. Use Of Spaces; Maximum Stay: Spaces may be used by tents or temporary shelter arrangements or devices (including recreational vehicles). The maximum stay shall be two (2) weeks for any guest.

**5-3-20: CAR WASH:**

A. All businesses providing self-service or drive-through car wash facilities shall identify the stacking lane and wash location on the site plan.

B. A one-hundred-foot (100') separation shall be maintained between any car wash facility and any residential area.

C. Vehicle stacking lanes shall be available on the property but outside the car wash facility entrance. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons. Such stacking lanes shall be separate from areas required for access and parking. The stacking lanes shall not be located within ten feet (10') of any residential area.

**5-3-21: CEMETERY:**

A. For the purposes of this subsection, the term "structures" shall include, but not be limited to, mausolea, columbaria, and crypts. No structure, exclusive of fences or walls, shall be located within one hundred feet (100') from any existing dwelling other than the dwelling of the owner or caretaker. Structures shall conform to the height limitation and setback requirements.

B. Graves and monuments shall not be located within fifteen feet (15') from any property line.

C. All cemeteries shall be platted according to the regulations of Chapter 6, of this ordinance.

D. If the cemetery is privately owned, the cemetery shall be established as a perpetual care cemetery in accord with Idaho Code Section 27-401.

**5-3-22: CHILDREN'S TREATMENT FACILITY:**

A. The applicant or owner shall secure and maintain a license from the State of Idaho Department of Health and Welfare Family and Children's Services Division.

B. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B of this ordinance.

**5-3-23: CHURCH:**

Schools, child daycare services, meeting facilities for clubs and organizations, and other similar uses not operated primarily for the purpose of religious instruction, worship, government of the church, or the fellowship of its congregation may be permitted to the extent the activity is otherwise permitted in Chapter 2A-3.

**5-3-24: CLUB OR LODGE OR SOCIAL HALL:**



A. All structures shall meet the minimum required setbacks, or a minimum setback of thirty-five feet (35') from any public street and twenty five feet (25') from any other property line, whichever is greater.

B. Any food service shall be approved by the Southeastern Idaho Public Health Department.

**5-3-25: COMPOSTING FACILITY, COMMERCIAL:**

5 A. The use shall comply with all applicable regulations pertaining to designation, licensing, and maintenance of commercial composting facilities including, but not limited to, federal, state, and local statutes, rules, and/or ordinances.

B. Grass composting shall only be allowed when the applicant can demonstrate that the use will not cause undue adverse impacts on surrounding properties.

10 C. All structures, outdoor storage areas, or any areas where compost is stored shall be located a minimum of one hundred feet (100') from any residential district and shall meet the standards of Section 5-3-54, "Outdoor Storage", of this chapter.

**5-3-26: CONTRACTOR'S YARD OR SHOP:**

A. General Standards:

- 15 1. All structures or outdoor storage areas shall be located a minimum of one hundred feet (100') from any property line abutting other property. The one-hundred-foot (100') buffer from the property line shall have a vegetative ground cover and shall be regularly maintained to prevent weed growth. All structures and outdoor storage areas shall be depicted on the site plan.
- 20 2. Outdoor storage areas shall be screened year-round and comply with Section 5-3-54, of this chapter.
3. The site shall not be used as a "junkyard" or "automobile wrecking yard" as herein defined.
4. For the purposes of this title, a contractor's yard or shop is not a home occupation.
5. The property shall have approved access from an improved public roadway for the use.
- 25 6. Maintenance of vehicles or machinery shall be incidental to the contractor's yard or shop and the incidental use shall only include minor repair.
7. Parking area improvements shall comply with the standards found in Chapter 4, Article E of this ordinance and shall be delineated on the site plan or parking plan. No on street parking of vehicles or equipment associated with the use is allowed.
- 30 8. Hours of operation shall be limited between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. unless otherwise approved or restricted with a conditional use permit.
9. No retail sales associated with a contractor's yard or shop may occur on the property unless retail sales are approved with a different use that allows retail sales.
10. A building permit may be required for the change in use or occupancy of any existing structure, or portion thereof, used in association with a contractor's yard or shop.
- 35 11. For the duration of the approval, the use shall be subject to zoning inspection upon advanced notice and request by the Oneida County Planning and Zoning Department. If a permit holder refuses to allow inspection of the premises by the Planning and Zoning Department, the approved zoning certificate or conditional use permit may be revoked.

40 B. Additional Standards: Additional standards for a contractor's yard or shop permitted as a conditional use:

1. The following shall be considered as part of the review of an application for a conditional use permit for a contractor's yard or shop:

- a. The proximity of existing dwellings;
- b. The number of employees;
- c. The hours and days of operation;
- d. Dust;
- e. Noise;
- f. Outdoor loading;
- g. Traffic;
- h. Landscaping and screening;
- i. Other.

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- 10        2. The duration of a conditional use permit for a contractor's yard or shop shall be limited. The conditional use permit shall expire five (5) years following the approval date, or upon annexation of the subject property into a city, whichever occurs first. Upon expiration of the conditional use permit, all equipment and materials stored outdoors shall be removed within thirty (30) days from the subject property.

15        **5-3-27: CREMATORY:**

A. The applicant or owner shall obtain written approval from the State of Idaho Division of Environmental Quality.

- 20        B. A crematory, whether lying within or without the limits of a cemetery, shall be a minimum of one hundred feet (100') from any property line. The applicant shall provide written documentation that the crematory structures and equipment shall not create a public nuisance by reason of smoke or odor extending beyond or outside of the property lines of the subject premises.

C. The site for the crematory shall be maintained in an orderly manner so as not to create a public nuisance.

**5-3-28: DANGEROUS OR PROTECTED ANIMALS:**

- 25        A. Regulations: The owner or caretaker of dangerous or protected animals shall comply with all state and/or federal regulations regarding the maintaining, raising, harboring, possession, training, or boarding of such animals.

B. Endangered Or Protected Species Research Facility: Facilities for, as herein defined, are subject to the following standards and processes:

- 30        1. Standards: Standards applicable to an "endangered or protected species research facility" as defined herein shall include:
- a. The facility, which may include more than one structure, must be located on a parcel containing at least forty (40) contiguous acres of land.
  - 35        b. The applicant shall apply for a conditional use permit for approval of a conceptual development plan. The decision-making body shall determine the approval period for the conceptual development. The maximum allowable time period shall not exceed twenty (20) years.
  - 40        c. Allowable ancillary uses consistent with the research and educational mission of the endangered or protected species research facility, can be established at the time of conditional use permit approval of a conceptual development plan. These uses may include, but not be limited to: museums, visitor centers, incidental retail, libraries, classrooms, offices, meeting spaces, staff residences, storage buildings and veterinary and laboratory facilities. Additional ancillary uses



identified at time of conceptual development plan application may require separate conditional use approval at the time of development.

- d. Unless specifically exempted or amended as part of an approved conditional use permit, all structures and uses, with the exception of incidental storage or utility structures having a building footprint of less than one thousand five hundred (1,500) square feet, shall be set back two hundred feet (200') from any property line abutting a residential use. In no case shall setbacks be reduced below the minimum standards, unless a variance is approved pursuant to Section 7-4 of this ordinance. Incidental storage or utility structures having a building footprint of less than one thousand five hundred (1,500) square feet shall comply with standard setbacks.
- e. The facility's water system for potable water and fire suppression shall be approved by Southeastern Idaho Public Health Department and the respective fire department who has jurisdiction of the area where the facility is to be located.

**5-3-29: DAYCARE CENTER, FAMILY DAYCARE HOME, GROUP DAYCARE FACILITY:**

**A. Standards For Daycare Centers:**

1. There shall be a minimum of thirty-five (35) square feet of net floor area indoors per client. This space shall be measured wall to wall in rooms that are regularly used by the clients, exclusive of halls, bathrooms, and kitchen.
2. On site vehicle parking and pick up and turnaround areas shall be provided to ensure safe discharge and pick up of clients.
3. The decision-making body shall specify the maximum number of allowable clients as a condition of approval, based on the requirements of this ordinance and Idaho Code.
4. The decision-making body shall consider the uses of the surrounding properties in the determination of the compatibility of the proposed daycare center with such uses. The decision-making body may require additional conditions as are necessary to protect the public health, safety, and welfare of the clients.
5. No portion of the facilities used by clients may be within three hundred feet (300') of explosive or hazardous material storage including, but not limited to, the following uses: brewery or distillery, explosive manufacturing or storage, flammable substance storage, gasoline, diesel, or alternative fuel sales facility, manufacture or processing of hazardous chemicals or gases, and winery.
6. The daycare center operator shall secure and maintain a daycare center license from the State of Idaho Department of Health and Welfare.
7. The daycare center operator shall provide a minimum outdoor play area of one hundred (100) square feet per child. The minimum play area requirement may be waived if: a) there is greater or equal area of parks that abut the facility that can be used by the children, or b) the program design is such that the number of children using the play area at any one time conforms to the one hundred (100) square foot per child criteria.
8. All outdoor play areas shall be completely enclosed by a minimum of six-foot (6') barriers to secure against exit/entry by small children and to screen abutting properties.
9. Outdoor play equipment over six feet (6') high shall not be located in any required yard.
10. The proposed use shall be located and designed to protect the health, safety, and welfare of the children.
11. Minimum staff required is one per six (6) children under eighteen (18) months; one per twelve (12) children eighteen (18) months to five (5) years; and one per eighteen (18) children aged five (5) years or older.

12. A fire inspection and a health inspection are required by Idaho Code Sections 39-1104, 39-1109 and 39-1110. The daycare operator shall apply to the Idaho Department of Health and Welfare for the inspections.

13. A criminal history check is required by Idaho Code Section 39-1105. The daycare operator shall apply for the criminal history check at the Idaho Department of Health and Welfare.

14. Immunizations and staff training are required by Idaho Code Sections 39-1118 and 39-1119.

15. A commercial building permit is required for the entire structure(s) used for the daycare center.

16. Hours of operation are limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. or as specified in the conditional use permit.

**B. Standards For Family Daycare Homes:**

1. If any of the children cared for at the family daycare home are younger than seven (7) years of age, a criminal history check of staff shall be obtained from the Idaho Department of Health and Welfare.

2. Hours of operation are limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M.

**C. Standards For Group Daycare Facilities:**

1. There shall be a minimum of thirty-five (35) square feet of net floor area indoors per client. This space shall be measured wall to wall in rooms that are regularly used by the clients, exclusive of halls, bathrooms, and kitchen.

2. No overnight parking shall be allowed. Onsite parking for the group daycare facility shall not use the parking space(s) required for the dwelling unit or other approved uses located on the site.

3. The applicant shall provide a minimum outdoor play area of one hundred (100) square feet per child. The director may waive the minimum play area requirement if there is a park that abuts the property that can be used by the children.

4. All outdoor areas shall be completely enclosed by a minimum of six-foot (6') barriers to secure against exit or entry by small children and to screen abutting properties.

5. Outdoor play equipment over six feet (6') high shall not be located within any required yard.

6. Minimum staff required is one staff person per six (6) children younger than eighteen (18) months and one staff person per twelve (12) children eighteen (18) months old or older.

7. A fire inspection is required. The applicant shall apply to the local fire district, or, if not located within a fire district, to the Idaho Fire Marshal.

8. If any of the children cared for at the group daycare facility are younger than seven (7) years of age, a criminal history check of staff is required from the Idaho Department of Health and Welfare, per Idaho Code Section 39-1114.

9. Hours of operation are limited to seven o'clock (7:00) A.M. to six o'clock (6:00) P.M. or as specified in the conditional use permit.

**5-3-30: DRIVE-UP WINDOW SERVICE:**

A. All businesses providing drive-up window service shall identify the stacking lane, menu and speaker location (if applicable), and window location on the site plan.

B. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons. The stacking lane shall be a separate lane from the circulation lanes needed for access and parking. The stacking lane shall not be located within ten feet (10') of any residential area.



**5-3-31: DRUG AND ALCOHOL TREATMENT FACILITY:**

The following standards apply to drug and alcohol treatment facilities:

- A. The owner of the facility shall secure and maintain a license from the State of Idaho Department of Health and Welfare Mental Health and Substance Abuse Division.
- 5 B. The facility shall only be permitted if it lies within an area of city impact.
- C. The operator shall provide a plan for providing emergency services.
- D. The operator shall provide a road access plan to be reviewed and approved by the respective fire department, Oneida County Sheriff's Department, Oneida County Emergency Medical Services, and the Oneida County Road and Bridge Department.
- 10 E. The operator shall provide Southeastern Idaho Public Health Department approval of the water and sewer systems.

**5-3-32: EXPLOSIVE MANUFACTURING OR STORAGE:**

The following standards apply to explosive manufacturing or storage as a nonaccessory use. This Section shall not apply to gasoline fueling stations or research and development facilities.

- 15 A. The use shall be located a minimum of one thousand feet (1,000') from any residential area or approved hospital use.
- B. The facility shall be enclosed by an eight foot (8') high security fence or wall. Entrance and exit shall be through a gate that shall be locked during nonbusiness hours. See also Section 5-3-34, "Fence; Barbed Wire, Electric Wire or Other", of this chapter.
- 20 C. The application materials shall include written documentation from the appropriate fire authority approving the proposed location and plan specifications of the facilities.
- D. The application materials shall include maps and engineering drawings showing proposed drainage, proposed sewer system design, the depth of the water table, soil composition, all existing surface water, and all existing uses within one-fourth ( $\frac{1}{4}$ ) mile of the property. The applicant shall also furnish evidence
- 25 that the dangerous characteristics of the process or activity in question have been or shall be eliminated or minimized sufficiently so as not to create a public nuisance or be detrimental to the public health, safety, or welfare.
- E. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

**30 5-3-33: FARM, GARDEN, LUMBER, OR BUILDING SUPPLY STORE:**

Outdoor storage areas shall comply with Section 5-3-54 of this chapter.

**5-3-34: FENCE; BARBED WIRE, ELECTRIC WIRE, OR OTHER:**

- A. No sight-obscuring fence, hedge, wall, latticework, or screen shall violate the "clear vision triangle", as defined herein, requirements at a street intersection.
- 35 B. Barbed wire and electric wire fencing shall only be allowed on properties that meet one or more of the following standards:
  - 1. The property is a "farm", as herein defined;
  - 2. The property has a livestock confinement facility; or
  - 40 3. The use of barbed wire and/or electric wire fencing was allowed as part of an approved use where the applicant proposed security fencing.

C. Within an area of city impact, no fence, wall, latticework, or screen shall be erected over three feet (3') in height within the required front yard.

D. No fence, wall, latticework, or screen on the perimeter boundary or within any required setback area shall exceed a height of six feet (6'), unless required pursuant to this chapter and/or approved by a variance by the Board or as part of an approved use. Any fence over six feet (6') in height shall also require a building permit with construction drawings prepared by a qualified and licensed engineer or architect.

E. Where any sight-obscuring fence or wall is required by this ordinance to protect adjacent properties, said fence or wall shall be kept free from advertising and graffiti and maintained in good repair.

F. Security fencing that is not associated with an agricultural use or a livestock confinement facility shall only be used as the top Section of the fencing and shall be a minimum of six feet (6') above grade.

#### **5-3-35: FLAMMABLE SUBSTANCE STORAGE:**

The following standards apply to flammable substance storage as a nonaccessory use. This Section shall not apply to gasoline fueling stations or research and development facilities.

A. All structures or outdoor activity areas shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential area or approved hospital use.

B. The facility shall be enclosed by an eight foot (8') high security fence or wall. Entrance and exit shall be through a gate that shall be locked during nonbusiness hours. See also Section 5-3-34 (fence; barbed wire, electric wire, or other) of this chapter.

C. The application materials shall include written documentation from the appropriate fire authority approving the proposed location and plan specifications of the facilities.

D. The application materials shall include maps and engineering drawings showing proposed drainage, proposed sewer system design, the depth of the water table, soil composition, all existing surface water, and all existing uses within one-fourth ( $\frac{1}{4}$ ) mile of the property. The applicant shall also furnish evidence that the dangerous characteristics of the particular process or activity in question have been or shall be eliminated or minimized sufficiently so as not to create a public nuisance or be detrimental to the public health, safety, or welfare.

E. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

#### **5-3-36: FOSTER HOME, GROUP:**

A. Off-street parking shall be provided as per Chapter 4, Article E of this ordinance, in addition to the required off-street parking for the dwelling.

B. If the proposed group foster home results in more than ten (10) persons occupying a dwelling at any one time, the applicant or owner shall concurrently apply for a change of occupancy as required by the building code.

C. The applicant shall provide a minimum outdoor play area of one hundred (100) square feet per child. The director may waive the minimum play area requirement if there is a park that abuts the property that can be used by the children.

D. All outdoor play areas shall be completely enclosed by minimum six-foot (6') barriers to secure against exit/entry by small children and to screen abutting properties.

E. The proposed use shall be properly located and designed to protect the health, safety, and welfare of the children.



F. Outdoor play equipment over six feet (6') high shall not be located in a front yard or within any required yard.

G. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

**5 5-3-37: GASOLINE, DIESEL, OR ALTERNATIVE FUEL SALE FACILITY:**

A. When allowed as an accessory use, gasoline, diesel, or alternative fuel sales facilities shall not occupy more than twenty five percent (25%) of the subject property.

B. Installation of underground fuel tanks shall require written approval from Idaho Division of Environmental Quality, Idaho Department of Water Resources, and the appropriate fire authority.

10 C. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

D. Structures and pump station canopies on corner properties shall observe a minimum setback of thirty-five feet (35') from any public street. There shall be a minimum setback of twenty-five feet (25') from any residential area.

15 E. The total height of any overhead canopy or weather protection device shall not exceed twenty feet (20').

F. Vehicle stacking lanes shall be available on the property but outside the fueling areas. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons. Such stacking lanes shall be separate from areas required for access and parking. The stacking lanes shall not be located within ten feet (10') of any residential area.

G. All trash, waste materials, and obsolete automobile parts shall be stored within a separate enclosure behind the principal structure of the gasoline, diesel, or alternative fuel sales facility.

**5-3-38: GOLF COURSE AND COUNTRY CLUB:**

25 A. To be eligible for an accessory country club and/or sale of alcoholic beverages, the golf course shall be a bona fide golf course as defined by Idaho Code Section 23-903.

B. Accessory sales and rental of golf equipment shall be allowed.

C. The golf driving range shall be designed to protect abutting property and roadways from golf balls. See Section 5-3-8 of this chapter for nonaccessory driving ranges.

30 D. All other accessory structures to the golf course shall not be located within one hundred feet (100') of an abutting property within a residential area. No outdoor recreation area associated with the country club shall be located within fifty feet (50') of any property line. If an outdoor swimming pool is proposed on site, the pool shall be enclosed with a six foot (6') barrier

E. For reasons of public health, safety and welfare, an accessory country club or clubhouse shall only be allowed as long as the subject property is within a fire district.

35 F. Outdoor storage areas shall comply with Section 5-3-54 of this chapter.

**5-3-39: HEAVY EQUIPMENT SALES AND SERVICE:**

A. All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.

40 B. Outdoor storage of accessories, replacement parts, or discarded parts shall comply with Section 5-3-54 of this chapter.

C. Inoperable or dismantled equipment shall be stored behind a sight obscuring fence, wall, or screen or within an enclosed structure, and shall not be visible from any street or private road.

**5-3-40: HOME OCCUPATION:****A. Standards For All Home Occupations:**

1. The home occupation shall not cause the property to differ from its rural or residential character in appearance, or in the emission of noise, dust, fumes, odors, vibrations, or electrical interference.
- 5 2. No more than twenty five percent (25%) or one thousand feet (1,000') (whichever is less) of the total floor area of the principal permitted dwelling shall be devoted to the home occupation or for storing goods or vehicles associated with the home occupation. Total floor area shall include both habitable and noninhabitable space.
- 10 3. The structure in which the home occupation is located must have a valid building permit and/or zoning approval. The home occupation and associated storage shall not occupy any space required for off street parking for the principal permitted dwelling.
4. No outdoor storage or outdoor loading shall be allowed, except that one work trailer, work vehicle or commercial vehicle may park on the property.
- 15 5. No home occupation shall discharge any hazardous material into any sewer, drainageway or the ground.
6. The following occupations are prohibited as home occupations: service, repair or painting of any vehicle; commercial kennel; adult entertainment; commercial composting; sale, repackaging or use of hazardous materials; or prohibited use as shown in Chapter 2, Article A-3.
- 20 7. Contractor's yard or shop is not a home occupation. Contractor's yard or shop is regulated by specific use standards in this chapter.
8. Daycare is not a home occupation. Daycare is regulated by specific use standards found in this chapter.
- 25 9. One home sign is allowed, and shall comply with Chapter 4, Article F of this title. Off premises or off site signage must be separately approved in accordance with Chapter 4, Article F of this ordinance.
10. No processing of soil or rock shall be allowed.
11. Storage or use of hazardous materials, odor causing materials, or other materials that may cause a nuisance or health or safety problems is prohibited.
- 30 12. For the duration of an approved use, the home occupation shall be subject to zoning inspection upon advanced notice and request by the Oneida County Planning and Zoning Department. If a permit holder refuses to allow inspection of the premises by the department, the approved use may be revoked.
13. Home occupations shall comply with all applicable state and federal regulations.
- 35 14. In addition to the requirements set forth on the applicable application forms of the department, home occupation applications shall include the following:
  - a. A site plan, depicting the total square footage and location of all existing and proposed structures located within the property boundaries of the subject property.
  - b. A graphical depiction, such as a floor plan, showing the separation of home occupation space from residential and/or accessory use space.
  - 40 c. A detailed letter indicating:
    - (i) The square footage of the proposed area of the home occupation;
    - (ii) The number of employees who do not live on site;



- (iii) If retail sales are planned;
- (iv) The hours and days of operation;
- (v) If group instruction is planned, the number of students at any one time;
- (vi) The number of off-street parking spaces;
- 5 (vii) The number of commercial vehicles;
- (viii) The frequency of pick ups, deliveries, and visits by patrons; and
- (ix) Any other information relative to the description of the proposed home occupation.

**B. Standards For Small Home Occupations:**

- 10 1. The resident owner of the home occupation shall continuously comply with the restrictions in this Section and the specific use standards found in this chapter.
- 2. A building permit may be required for the change in use or occupancy of any portion of the principal permitted dwelling, greenhouse, garage, or accessory structure used for the home occupation.
- 3. The home occupation shall be conducted solely by the residents of the principal permitted dwelling. No employees are allowed.
- 15 4. No client, customer, and/or student visits shall be allowed.
- 5. The property shall have no more vehicle trips per day than average for a residence.
- 6. The home occupation shall not receive more than two (2) pick ups or deliveries per day.

**C. Standards For Large Home Occupations:**

- 20 1. Administrative approval is required. The owner of the home occupation shall continuously comply with the restrictions in this Section and the specific use standards found in this chapter.
- 2. A building permit may be required for the change in use or occupancy of any portion of the principal permitted dwelling, greenhouse, garage, or accessory structure used for the home occupation.
- 3. The home occupation shall be conducted by the inhabitants of the principal permitted dwelling, and no more than one nonresident employee shall be permitted to work on site.
- 25 4. All visits by the nonresident employee, clients and customers, and deliveries, shall occur between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M., Monday through Friday, and on Saturday between the hours of ten o'clock (10:00) A.M. and two o'clock (2:00) P.M.
- 5. Group instruction shall be limited to no more than five (5) students at one time.
- 30 6. One paved, off-street parking space shall be provided for the nonresident employee, plus up to three (3) parking spaces for clients, if applicable. No overnight parking of client or employee vehicles shall be allowed on site. On-site parking may be reduced by the number of off-street parking spaces in the driveway and by on street parallel parking spaces in front of the single-family detached dwelling, if applicable.
- 35 7. The property shall have no more than twenty (20) vehicular trips per day of combined residential and home occupation traffic.
- 8. Large home occupations, involving on-site visits by clients, customers, and/or students shall not be allowed on private roads unless one of the following can be demonstrated:
  - a. The private road does not provide access or frontage to any other property; or
  - 40 b. An existing or updated recorded maintenance/easement agreement addresses and permits nonresidential use of the private road.

**5-3-41: HOSPITAL:**

A. The use shall have frontage on an arterial street.

B. Accessory retail uses including, but not limited to, retail shops, food or beverage service, and personal service shops, may be allowed if designed to serve patrons of the hospital and their visitors only.

5 C. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

10 D. No hospital shall be located within one thousand feet (1,000') of the following uses: explosive manufacturing or storage, livestock confinement facility with three hundred one (301) or more animal units, flammable substance storage, manufacture or processing of hazardous chemicals, centralized power facility, processing plant for agricultural and dairy products, or soil or water remediation,

**5-3-42: HOTEL OR MOTEL:**

A. No structure or driveway shall be located within one hundred feet (100') of a property line abutting a residential area.

15 B. Accessory retail uses including, but not limited to, restaurants, retail shops, food or beverage service, and personal service shops, may be allowed if such facilities are completely within the hotel or motel structure. A bar or nightclub shall require separate or concurrent approval subject to the regulations of this ordinance.

20 C. No outdoor recreation area associated with the hotel or motel shall be within one hundred feet (100') of a residential area. If an outdoor swimming pool is proposed on site, the pool shall be enclosed with a six-foot (6') barrier

**5-3-43: JUNKYARD OR AUTOMOBILE WRECKING YARD:**

A. Screening:

1. Outdoor storage areas shall comply with Section 5-3-54 of this chapter. The fence or wall and screening materials shall be a minimum of ten feet (10') in height.
- 25 2. No portion of the junkyard or automobile wrecking yard outdoor storage areas and/or outdoor activity areas may be visible from any "highway", "arterial", or "minor arterial".
3. All materials or parts shall be stored and located within the fenced or walled area. No vehicles or materials shall be stored so they exceed the height of the fence or wall.

B. Site Related Standards:

- 30 1. All structures or outdoor activity areas shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential area.
2. The site plan shall designate an area for processing vehicles as they are brought to the site. The processing area shall be an impermeable surface that has a means to collect and properly dispose of oils and fluids in the vehicles.
- 35 3. The applicant shall obtain all necessary permits for the storage of materials on the site, including, but not limited to, oil, hazardous waste, and tires.
4. All junkyards or automobile wrecking yards shall be operated in compliance with Idaho Code Section 40-313.
- 40 5. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.



6. The applicant shall submit review comments from the Oneida regional office of the Idaho Division of Environmental Quality with the conditional use permit application.

**5-3-44: KENNEL, COMMERCIAL:**

- A. The owner and/or operator shall have an obligation to comply with all county and state regulations relative to the operation of the commercial kennel.
- B. The owner and/or operator shall maintain sanitary practices so as not to create a public nuisance and to reduce noise and odor.
- C. If applicable, the facility shall meet the specific use standards for animal boarding with outside runs in Section 5-3-9 of this chapter.

**5-3-45: LAUNDROMAT:**

If abutting a residential district, the hours of operation shall not be earlier than seven o'clock (7:00) A.M. and no later than ten o'clock (10:00) P.M.

**5-3-46: LIVESTOCK CONFINEMENT FACILITY:**

A. Definitions: For the purposes of this Section, the following definitions shall apply:

1. The term "existing facility" shall apply to any livestock confinement facility that was legally in existence prior to the effective date of this ordinance.
2. The term "existing development" shall refer to uses and activities that are nonagricultural or nonindustrial in nature including, but not limited to: dwelling on a property less than ten (10) acres in size and that is under construction, occupied, or listed for rent or sale; amusement or recreation facility; outdoor auction establishment; bed and breakfast establishment; boarding house; children's treatment facility; campground; church; club or lodge or social hall; daycare facility; drug and alcohol treatment facility; golf course; skilled nursing facility; racetrack; residential care facility; and/or school. However, the term shall not include dwellings and/or establishments associated with the AFO operation.
3. For information on "grandfather rights" for existing uses, see Section 2B of this title, nonconforming property, use, or structure.

B. Applicability:

1. A new livestock confinement facility or expansion of an existing facility that has more than two (2) animal units/acre or three (3) animal units for horses/acre and less than 299 animal units shall require conditional use permit approval.
2. A new livestock confinement facility or expansion of an existing facility that will have more than two (2) animal units/acre or three (3) animal units for horses/acre or three hundred (300) to nine hundred ninety-nine (999) animal units shall be deemed an animal feeding operation (AFO) small and shall require conditional use permit approval.
3. A new AFO or expansion of an existing AFO that will have more than one thousand (1,000) animal units shall be deemed an animal feeding operation (AFO) large and shall require conditional use approval.
4. Existing facilities with more than two hundred thirty (230) animal units shall have the option to register their facility with the Oneida County Planning and Zoning Department by one year after the effective date of this title. The purpose of the registration is to establish the property boundaries and the operating capacity of the livestock confinement facility. Operating capacity shall be either the historic maximum animal units or the maximum design capacity (in animal units) of the facility, whichever number is greater. Existing facilities that register shall be allowed up to a thirty percent

(30%) increase in the registered operating capacity without master site plan or conditional use approval.

5. Aquaculture AFOs are exempt from the regulations in this Section, except for manure storage setback as set forth in table 8-5-1 of this Section.

5 C. Standards: Livestock confinement facilities shall meet one or more of the following standards:

1. The property is one (1) acre in size or larger; and
2. Livestock confinement facilities shall only be located within an A or RR Base District.

D. Additional Standards for AFOs: In addition to the livestock facility standards of Subsection C of this Section, the following standards shall apply:

- 10 1. Compliance: The AFO must comply with and not be in violation of any federal, state, or local law including, but not limited to, all applicable State of Idaho Department of Agriculture, State of Idaho Department of Environmental Quality, State of Idaho Department of Water Resources, and/or Southeastern Idaho Public Health Department regulations and specifications.
- 15 2. Siting Standards: For expansions of existing facilities that require site plan or conditional use approval, the location standards shall only apply to proposed expansions.
  - a. Lagoons and manure storage shall not be located within a flood hazard overlay district.
  - b. All lagoons and manure storage areas shall maintain a minimum separation distance, as set forth in table 8-5-1 of this Section.

20 TABLE 8-5-1: AFO SETBACKS

| Use                                                                                                                    | Setback (In Feet) |
|------------------------------------------------------------------------------------------------------------------------|-------------------|
| Another AFO lagoon or manure storage area where existing development is within either AFO sphere of influence          | 2,500             |
| Another AFO lagoon or manure storage area where there is no existing development within either AFO sphere of influence | 1,250             |
| Existing development outside an area of city impact                                                                    | 1,000             |
| Existing development inside an area of city impact                                                                     | 2,500             |
| Public water intakes <sup>1</sup>                                                                                      | 300               |
| Domestic well <sup>2</sup>                                                                                             | 300               |
| Streets and roadways                                                                                                   | 200               |
| Property lines not fronting a street or roadway                                                                        | 300               |

Notes:



1. Public water intakes shall include, but not be limited to, wells, springs, lakes, and/or streams used as a potable water source.

2. This does not include any domestic well of the AFO owner and/or operator.

a. Silage, haylage, potatoes, or any feed product resulting from the ensilage process shall be stored no closer than three hundred feet (300') from any property line.

b. Each existing facility with three hundred (300) or more animal units and each proposed AFO shall have a one-mile radius sphere of influence from the lagoons and/or manure storage areas. The sphere of influence of a proposed AFO may overlap the sphere of another AFO if no existing development is within more than two (2) AFO spheres of influence.

E. Alternative Design: The Administrator may approve, or recommend approval of, alternative site development when the overall design, as proposed by the applicant, meets or exceeds the intent and the requirements of this Section and shall not be detrimental to the public health, safety, and welfare. **5-3-47: MANUFACTURE OR PROCESSING OF HAZARDOUS CHEMICALS OR GASES:**

The following standards shall apply to the manufacture or processing of hazardous chemicals or gases as a principal permitted use. The standards shall not apply to research and development facilities.

A. All structures shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential area or approved hospital use.

B. All hazardous chemicals or gases shall be stored and/or used within an enclosed structure.

C. The facility shall be enclosed by a minimum eight foot (8') high security fence or wall. Entrance and exit shall be through a gate that shall be locked during nonbusiness hours.

D. The application materials shall include written documentation from the appropriate fire authority approving the proposed location and plan specifications of the facilities.

E. The application materials shall include maps and engineering drawings showing proposed drainage, proposed sewer system design, the depth of the water table, soil composition, all existing surface water, and all existing uses within one-fourth ( $\frac{1}{4}$ ) mile of the property. The applicant shall also furnish evidence that the dangerous characteristics of the particular process or activity in question have been, or shall be, eliminated or minimized sufficiently so as not to create a public nuisance or be detrimental to the public health, safety, or welfare.

F. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

#### **5-3-48: MANUFACTURED HOME:**

A "manufactured home", as herein defined, is a principal permitted use. A manufactured home shall meet the standards of a manufactured home, not the standards for a single-family dwelling as herein defined. Unless otherwise provided for in this ordinance.

#### **5-3-49: MANUFACTURED HOME PARK:**

A. Definitions: For the purposes of this section, the following definitions shall apply:

COMMON PLAY AREA: Shall refer to the play area required in Subsection F3 of this section. The term common play area shall not refer to the outdoor living area required in Subsection D4 of this section.

DRIVE: A privately owned roadway that provides internal circulation for vehicles within the manufactured home park and/or access to manufactured home spaces within the manufactured home park.

MANUFACTURED HOME SPACE: Shall refer to the area that is for lease or rent as a site to place a manufactured home, including the required outdoor living area. The manufactured home space shall be delineated on an approved master site plan for a manufactured home park.

SERVICE AREA: Shall refer to areas necessary for the management of the manufactured home park. Such areas may include, but shall not be limited to: storage and collection areas for trash and garbage, loading and unloading areas other than passenger vehicles, and outdoor storage areas.

B. Density: The maximum density of a manufactured home park shall not exceed the maximum density of the corresponding base district.

C. Use Standards:

1. Accessory uses shall be in conformance with the accessory uses of the corresponding base district.
2. A single-family detached dwelling or a manufactured home may be allowed for the sole use of a caretaker.
3. A recreational center and clubhouse may be allowed for the use of park residents.
4. Manufactured home parks shall accommodate only manufactured homes – not vacation trailers or other recreational vehicles except when stored within a designated storage area. A manufactured home shall not remain overnight in a manufactured home park unless it is parked in a manufactured home space. Not more than one manufactured home shall be parked at one time in a manufactured home space.
5. Manufactured home parks approved subject to the regulations of this section may be expanded or altered after approval is obtained from the decision-making body. The application, filed by the owner or other party in interest, shall be filed and processed in the same manner as an application for a new manufactured home park.

D. Manufactured Home Space Design Standards:

1. No manufactured home space shall contain less than two thousand (2,000) square feet. The gross average areas of all spaces in the park shall not be less than three thousand (3,000) square feet. No drives, common play area, or service area shall be considered as providing any part of the required manufactured home space.
2. No manufactured home space shall be less than thirty feet (30') in width and/or depth.
3. The boundaries of each manufactured home space shall have an approved fence, wall, planting, or other permanent marker defining the perimeter of the space.
4. An outdoor living area shall be provided in each manufactured home space. Such outdoor living area shall be a minimum of ten percent (10%) of the individual space, but in no case shall such area be less than three hundred (300) square feet nor required to be more than five hundred (500) square feet. The minimum dimension of such area shall not be less than fifteen feet (15').

E. Drives: Drives shall comply with the following standards and are subject to plan review, field inspection, and approval by the county engineer:

1. The following construction standards apply to all drives in manufactured home parks:
  - a. A minimum of one drive shall originate at a public street and terminate at a public street. This standard is not intended to require two (2) access points to the manufactured home park.
  - b. Drives shall have rolled concrete curb and gutter sections along both sides of the drive and extending the length of the drive.
  - c. Drives shall be a minimum of thirty feet (30') wide from back of curb to back of curb. The entire width of the drive shall be improved.



- d. Drive shall have a crown or transverse slope a minimum of two percent (2%) to drain water away from the travelway and shall be disposed of in a manner that protects life and property.
  - e. The improved surface shall include 2.5 inches of asphalt plant mix paving on top of the base course of six inches (6") of three-fourths inch (3/4") minus crushed gravel or other materials approved by the county engineers over a stable compacted subbase. As an alternative to asphalt plant mix, concrete shall be allowed with the approval of the county engineer.
  - f. Bridge and culvert crossings shall be designed for a minimum H-16 loading.
  - g. The maximum allowable grade shall be ten percent (10%) slope.
  - h. The minimum center line curve radius shall be fifty feet (50').
  - i. The minimum curb radius at intersections shall be twenty feet (20').
2. The county engineer may approve, or recommend approval of, alternative drive designs when the overall design, as proposed by the applicant, meets, or exceeds the intent and the requirements of this Article and shall not be detrimental to public health, safety, and welfare.
  3. Sidewalks shall be constructed along one side of the drive and constructed to the standards as established by the Oneida County Highway Standards and Development Procedures.

#### F. Park Design Standards

1. Two (2) off-street parking spaces shall be provided for each manufactured home space. All off-street parking shall be improved to the same standards as drives as noted in Subsection E of this section. Parking areas for accessory uses shall be paved in a like manner. For the purposes of this section, off-street parking spaces shall mean off-drive parking spaces.
2. Outdoor lighting shall be provided to illuminate drives and sidewalks. Lighting shall be subject to the regulations of chapter 4, Article H of this title.
3. Manufactured home parks that accommodate children less than fourteen (14) years of age shall provide a common play area restricted to that use. Parks that qualify as housing for older persons subject to the federal fair housing act are exempt from this regulation.
  - a. A minimum of one hundred (100) square feet of common play area shall be provided per manufactured home space; provided, however, that no such common play area, regardless of the number of manufactured home spaces, shall be less than two thousand five hundred (2,500) square feet.
  - b. The common play area shall be protected from all streets, drives, driveways, and parking areas by a minimum thirty-six-inch (36") barrier. The fencing material shall meet the swimming pool barrier requirements of the building code.
4. All manufactured home parks shall comply with the Americans with disabilities act accessibility guidelines.
5. Manufactured home parks shall provide a side and rear yard of a minimum of twenty feet (20').
  - a. Where the neighboring property is in a residential base district, such yard may be used for open space but shall not contain carports, storage structures, or any other structures.
  - b. Where the neighboring property is in a rural, commercial, or industrial base district such yard may be used for open space, group or individual parking, recreational facilities, carports, or storage structures.

#### G. Screening: The following standards shall apply:

1. Along the perimeter of the manufactured home park, fences, walls, and/or vegetative screening shall be provided to screen off-street parking areas with more than five (5) spaces and service areas.
- 5 2. Fences, walls, and/or vegetative screening along the perimeter of the manufactured home park shall be provided to protect park residents from undesirable views, lighting, noise, or other off-site influences, or to protect occupants of neighboring residential districts from potential adverse influences within the manufactured home park including, but not limited to, undesirable views, lighting, and/or noise.
- 10 3. Off-street parking areas with five (5) or more parking spaces and service areas shall be screened from view of park residents.

H. Manufactured Home Placement Standards:

1. Carports, cabanas, awnings, and all other structures, whether herein defined or not, that are attached to the manufactured home shall be considered as a portion of the manufactured home. Such additions and structures shall conform to the requirements of the building code
- 15 2. Trailer hitches shall not project beyond the manufactured home space.
3. The minimum distance between a manufactured home (exclusive of trailer hitches) and:
  - a. Any other manufactured home shall be ten feet (10').
  - b. Any structure shall be ten feet (10').
  - 20 c. Any property line (excluding manufactured home space boundaries) shall be equal to or greater than the required setback for the base district.
  - d. Any public street shall be equal to the required setback for the base district.
  - e. Any common drive or walkway shall be five feet (5').
4. Not more than sixty percent (60%) of a manufactured home space may be occupied by a manufactured home and any other accessory structures.

25 **5-3-50: MORTUARY:**

A mortuary may be allowed as an accessory use to a cemetery when located within a fire district and/or when fire flow is available.

**5-3-51: NURSERY, WHOLESALE OR RETAIL:**

- 30 A. Outdoor mechanical equipment (including, but not limited to, heaters and fans) shall not be located within fifty feet (50') of a property line. To reduce noise, permanently mounted mechanical equipment shall be enclosed to the maximum extent possible.

B. Outdoor storage areas for materials shall comply with Section 5-3-54 of this chapter. The following nursery materials shall be exempt from this requirement:

1. Growing plants in ground or in containers; and
- 35 2. Wood chips, bark, rock, gravel, or similar ground cover material where such storage piles do not exceed six feet (6') in height.

C. The application of fertilizer or process wastewater at agronomic rates shall be deemed a component of the nursery use.

D. Additional standards for wholesale and/or retail nursery that is adjacent to a residential area :

- 40 1. Any storage area for material in the process of being converted into compost shall be located a minimum of one hundred feet (100') from any property line.



2. No aerial spraying of the property shall be allowed.

**5-3-52: NURSING FACILITY, SKILLED:**

A. The owner and/or operator of the facility shall secure and maintain a license from the State of Idaho Department of Health and Welfare Facility Standards Division.

- 5 B. Accessory retail uses including, but not limited to, retail shops, food or beverage service, and personal service shops, may be allowed if designed to serve residents only.

C. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article C of this ordinance.

**5-3-53: OFFICE, TEMPORARY CONSTRUCTION:**

- 10 Any offices or accessory structures shall be removed from the property within thirty (30) days of completion of the construction project.

**5-3-54: OUTDOOR STORAGE:**

- 15 A. Screening: Outdoor storage areas shall be screened with at least one (1) of or combination of deciduous trees (shade or ornamental) evergreen trees, berms, solid fences, or walls along the perimeter of the property. Cyclone or chainlink fencing (with or without slats) shall not be deemed a screening material.

B. Outdoor Storage Areas: All outdoor storage areas shall be completely fenced or enclosed and screened from public view. The sight obscuring screen shall be at least six feet (6'), but not greater than ten feet (10'), in height. One side of the outdoor storage area may be left unenclosed or unscreened, provided that the materials stored in the area shall not be visible from a public roadway or an abutting property.

- 20 C. Prohibited Locations: Materials shall not be stored within the required setback area. Stored items shall not block parking areas and may not impede vehicular or pedestrian traffic.

D. Use Of Site: The site shall not be used as a "pit, mine, or quarry" or "contractor's yard" as herein defined unless such use has been approved.

- 25 E. Prohibited Uses: The site shall not be used as a "junkyard", "automobile wrecking yard", or vehicle impound yard as herein defined.

F. Compliance: The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this title.

G. Additional Standards For Outdoor Storage As An Accessory Use: Accessory outdoor storage shall be allowed for approved uses subject to the following standards:

- 30 1. The location of the outdoor storage area shall be noted on the site plan and reviewed as part of that application.

2. Storage areas shall not be rented, leased, let, or otherwise used as a commercial business.

3. Outdoor storage for commercial or industrial uses shall be limited to those items owned or used by the business.

- 35 4. Outdoor storage for a multi-family development, recreational vehicle park, or manufactured home park, shall be only for recreational vehicles or personal recreation items of the tenants.

**5-3-55: OUTDOOR STORAGE BUILDING**

A. The property owner shall obtain a building permit prior to the construction of an outdoor storage building.

- 40 B. The property owner shall be required to comply with all provisions of this ordinance.

**5-3-56: PIT, MINE, OR QUARRY:**

A pit, mine, or quarry that meets the standards of Subsection C of this Section shall be reviewed as a temporary use. Any other pit, mine, or quarry shall be reviewed as a conditional use.

**A. General Use Standards:**

- 5        1. All operations shall be subject to accepted safety conditions for the type of excavation being performed.
2. Asphalt mixing, and concrete batching may only be allowed as accessory uses to a pit, mine, or quarry. See standards in Section 5-3-11 of this chapter.
- 10       3. Extraction, movement, or stockpiling within the required yards shall be prohibited. The tops and toes of cut and fill slopes shall remain outside the required yards.
4. Areas where equipment is stored shall be deemed outdoor storage areas and shall meet the standards of Section 5-3-54 of this chapter. Such storage areas shall be constructed and maintained to prevent chemicals from discharging into surface or ground waters. Such chemicals shall include, but not be limited to, petroleum products, antifreeze, and lubricants.
- 15       5. The extraction area shall be watered daily as necessary to reduce dust impacts to surrounding properties. Haul roads shall have a durable and dust free surface and shall be graded to drain all surface water from the haul roads.
6. The pit, mine, or quarry shall comply with the regulations of Chapter 3, Article B, of this ordinance, if applicable.
- 20       7. For any pit, mine, or quarry requiring an administrative or conditional use approval, the director shall notify all property owners within one thousand feet (1,000') of any property boundary of the proposed site and any additional area that may be substantially impacted by the use, as determined by the Administrator.
- 25       9. Upon reclamation of the final phase, all temporary structures shall be removed from the property, except for property line fences or walls. Any contaminated soils shall be properly recycled or disposed.

**B. General Design And Reclamation Standards:**

- 30       1. The applicant shall provide documentation (from the appropriate agency) that the proposed pit, mine, or quarry operation and reclamation plan comply with federal and state regulations in regard to air and water quality and site reclamation.
2. For a pit, mine, or quarry where the excavation area results in a pond, the following standards shall apply:
  - a. The extraction areas shall be designed to create a meandering edge.
  - 35       b. The applicant shall provide written documentation from Idaho Fish and Game that the proposed pond is designed to create viable fish and/or wildlife habitat.
  - c. The applicant shall provide documentation from Southeastern Idaho Public Health Department that the proposed pond shall not cause septic leach fields on abutting properties to fail.
  - 40       d. For the purposes of this Section, a "pond" shall be defined as any pit, mine, or quarry area where the rehabilitation plan results in an area that contains water to within six feet (6') of the surface permanently.
3. Any riparian vegetation disturbed as part of the operation shall be replaced at a ratio of two to one (2:1). Replacement vegetation shall be native plant materials.



4. The applicant or owner shall comply with all requirements of "Best Management Practices For Mining In Idaho", published by the Idaho Department of Lands.

C. Standards For Temporary Use Approval:

1. The property has not received previous approval for a pit, mine, or quarry as a temporary use.
- 5 2. The maximum area of the extraction site shall be six (6) acres.
3. The proposed extraction activities shall be completed within one (1) years.
4. The pit, mine, or quarry shall meet the standards in Subsections A and B of this Section.
5. Stockpiles shall be a maximum of fifteen feet (15') in height.
- 10 6. All extraction and hauling activities shall take place between seven o'clock (7:00) A.M. and dusk or six o'clock (6:00) P.M. (whichever is earlier) Monday through Friday.
7. Haul roads shall not pass through existing residential neighborhoods. For the purpose of this Subsection C, the term "residential neighborhood" shall be any residential subdivision development.
8. No rock crushing shall be done on site.
- 15 9. The proposed extraction activities shall be completed within one (1) year.

D. Standards For Conditional Use Approval:

1. The pit, mine, or quarry shall meet the standards in Subsections A and B of this Section.
2. The approved site plan shall include adequate parking and loading areas to accommodate the peak number of vehicles. Such areas shall not be within the required yards.
- 20 3. The hours of operation shall be from 7:00 AM to 6:00 PM, Monday through Saturday.
4. Rock crushing may be allowed as an accessory use.
5. The applicant shall show the extraction and reclamation phasing plan on the site plan.
6. The reclamation plan for each phase shall be implemented as soon as the subject area is depleted of resources or when the allowed time has ended (whichever occurs first).
- 25 7. The conditional use approval shall consider and/or establish a time frame for the extraction of material. For any proposal where the applicant requests an extraction period greater than five (5) years, the Commission shall review the status of the pit, mine, or quarry after 2.5 years and consider amendments or additions to the approval.

30 **5-3-57: POWER FACILITY, CENTRALIZED POWER FACILITY, DISTRIBUTED POWER FACILITY, ELECTRIC SUBTRANSMISSION LINE, AND ELECTRIC TRANSMISSION LINE AND SUBSTATIONS:**

A. General Standards:

1. Electric Distribution Line:
  - a. Electric distribution line shall be a principal permitted use. Site plan approval shall not be required.
  - 35 b. All wire fences, metal structures, and metal objects within one hundred feet (100') of distribution lines shall be grounded.
2. Electric Subtransmission Line:

a. Electric subtransmission line shall be a principal permitted use. Site plan approval shall be required. A parking plan is not required with the site plan application unless a parking area is proposed with the subtransmission line.

b. All wire fences, metal structures, and metal objects within one hundred feet (100') of a subtransmission lines shall be grounded.

### 3. Electric Transmission Line And Substation:

a. Electric transmission line and substations shall require conditional use approval.

b. Electric substations and other utility structures shall be deemed outdoor storage areas and shall meet the standards in Section 5-3-54 of this chapter.

c. Towers for the purpose of communicating from the substation to remote devices shall be deemed an accessory use to an approved substation, provided that the pole and antenna are no taller than the existing towers.

d. All wire fences, metal structures, and metal objects within one hundred feet (100') of transmission lines or substations shall be grounded.

### 4. Centralized Or Distributed Power Facilities:

a. No power facility shall be used for displaying any advertising except for reasonable identification of the manufacturer or operator.

b. The power facility shall comply with all local, state, and federal regulations.

c. Installation of an anemometer or similar devices shall be reviewed as a temporary use. See Chapter 4, Article G of this ordinance for governing regulations.

## B. Specific Standards Applicable To Centralized Power Facilities:

### 1. Standards Applicable To All Centralized Power Facilities:

a. The minimum property size shall be forty (40) acres.

b. The centralized power facility shall not be located within an area of city impact.

c. The applicant may be required to obtain approval from the appropriate agency, including, but not limited to, the following: Federal Energy Regulatory Commission, Federal Aviation Administration, national guard, Mountain Home military base, Idaho Bureau of Aeronautics, IPUC, Idaho Power Company compliance, Idaho Fish and Game, U.S. Department of Fish and Wildlife, Idaho Department of Water Resources, IDEQ, Idaho Bureau of Homeland Security Public Safety Communications, and the appropriate fire authority as a condition of approval.

d. The site plan for the proposed centralized power facility shall include a map of the proposed transmission line corridors and any proposed or existing substations, if any.

### 2. Additional Standards For Certain Centralized Power Facilities:

#### a. Biomass Facility:

(i) The applicant shall identify the specific location and type of all fuel sources for the biomass facility, and the method of gathering and delivering the fuel to the site.

(ii) Mass burn facilities shall not use waste containing hazardous materials as a fuel source.

#### b. Hydroelectric Facility:

(i) Major earthwork associated with construction and maintenance shall be scheduled to minimize soil disturbance between December 1 and April 15.



(ii) Any removal of riparian vegetation along watercourses shall be replaced at a ratio of two to one (2:1).

(iii) A site plan approval is not required for a hydroelectric facility, relating to a seasonal irrigation canal.

5 c. Solar Facility:

(i) Solar equipment shall meet the required setbacks.

(ii) All solar panels shall be nonreflective.

C. Specific Standards For Certain Distributed Power Facilities:

10 1. Geothermal Resources: Direct use of geothermal resources for heating spas, greenhouses, and other similar uses shall not constitute a distributed power facility.

2. Solar Facility:

a. All solar panels shall be nonreflective.

b. Roof mounted solar equipment shall not exceed five feet (5') above the roof surface and in no case shall the equipment exceed the maximum height of the base district.

15 c. Ground and pole solar equipment shall be prohibited in the required front or side yard.

d. Pole solar equipment shall not exceed a maximum height of fifteen feet (15').

e. Pole solar equipment shall be set back 1.5 feet from the property line for every one foot (1') of maximum height or the minimum setback for the district, whichever is greater.

f. Ground solar equipment shall meet the minimum setback for the district in which it is located.

20 3. Wind Facility:

a. Specific Standards For Rooftop Or Freestanding Wind Tower:

(i) The applicant may be required to obtain approval from the appropriate agency, including, but not limited to, the following: Federal Energy Regulatory Commission, Federal Aviation Administration, national guard, Mountain Home military base, Idaho Bureau of Aeronautics, IPUC, Idaho Power Company compliance, Idaho Fish and Game, U.S. Department of Fish and Wildlife, Idaho Department of Water Resources, IDEQ, Idaho Bureau of Homeland Security public safety communications, and the appropriate fire authority as a condition of approval.

30 (ii) Documentation shall be submitted that describes the expected maximum noise level that will be generated by the facility. If the noise level exceeds the applicable standard set forth below, the applicant shall submit an acoustical study prepared by a licensed professional that demonstrates how the facility will comply with the maximum allowed noise level.

(iii) No experimental, homebuilt, or prototype wind turbines shall be allowed.

b. Rooftop Wind Facilities:

35 (i) A minimum property size shall be one (1) acre.

(ii) Two (2) or more rooftop wind facilities require a conditional use; see Article A of this chapter.

(iii) Rooftop wind equipment shall not exceed the maximum height of the base district in which it is located.

40 (iv) The maximum diameter of the blades shall not exceed five feet (5').

(v) Roof mounted wind equipment shall be located so that in the event of failure, no part of the equipment will fall across any property line.

(vi) Noise emitted from a rooftop wind facility shall not exceed thirty-five (35) decibels (dBA) measured from all external property lines of the subject property.

5 c. Freestanding Wind Facilities:

(i) Minimum Property Size: The minimum property size shall be forty (40) acres.

(ii) Number Of Towers Allowed Per Acre: One wind tower per forty (40) acres shall be allowed.

10 (iii) Restriction On Number Of Towers: A property owner shall only be allowed to construct a maximum of two (2) wind towers on their property, including all of their abutting properties.

(iv) Maximum Height: The maximum height shall be one hundred twenty feet (120') including the tip height of the blade.

15 (v) Location From Property Lines: All wind tower facilities shall be located a minimum of 1.5 feet from all property lines for every one foot (1') of tower height, including the tip height of the blade.

(vi) Fall Zone: In addition to the setback requirements in Subsection C3c(v) of this Section, a fall zone for each wind tower facility shall be delineated and permanently restricted from future development, as follows:

20 (A) The fall zone shall consist of the land area centered beneath the wind facility and circumscribed by a circle with a radius equal to the maximum height including the tip height of the blade plus ten feet (10').

(B) All future development with the exception of agricultural buildings shall be prohibited within the fall zone.

25 (vii) Minimum Setback From Overhead Utility Lines: The minimum required setback distance from all overhead utility lines shall be no less than the tower height including the tip height of the blade plus ten feet (10') unless extended by an easement from the overhead utility line company for the fall distance.

(viii) Maintenance And Removal:

30 (A) Maintenance: All wind facilities and their identification tags, supports, braces, mechanical and electrical equipment, and associated apparatus must be kept fully operable and maintained in a safe, neat, and clean condition.

35 (B) Removal: Any wind facility that is not operated for a continuous period of twelve (12) months or more or that is in an obvious state of disrepair and a threat to public safety will be deemed abandoned and must be removed within sixty (60) days.

(ix) Shadow Flicker: The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any nonparticipating landowner's property.

40 (x) Color: Wind facilities shall be a neutral, nonreflective color designed to blend with the surrounding environment. This shall not preclude towers requiring FAA painting and/or marking from meeting those standards.

(xi) Minimum Distance From Ground To Blade: Minimum distance between the ground and the tip of the blade closest to the ground in a resting position shall not be less than twenty feet (20').



- (xii) Lighting: No lighting is allowed, except as required by the federal aviation administration.
- (xiii) Uncontrolled Rotation Prevention: All wind turbines must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation creating excessive pressure on the tower structure, rotor blades, and turbine components.
- (xiv) Emergency Shutdown: Procedures for emergency shutdown of power generation units shall be established and posted prominently and permanently within three feet (3') of the meter panel.
- (xv) Administrator's Review: The conditional use permit shall require an Administrator's review every five (5) years upon issuance of a zoning certificate. The director shall review the conditions of approval for compliance.
- (xvi) Noise: Noise emitted from a freestanding wind facility shall not exceed forty-five (45) decibels (dBA) as measured from all external property lines of the subject property

**5-3-58: PUBLIC OR QUASI-PUBLIC USE:**

- A. Minimum Setbacks; Compatibility: All structures shall meet the minimum required setbacks. Structures shall be designed and constructed to be compatible with the surrounding properties including, but not limited to, building materials, and building mass.
- B. Public Recreation Facilities: The standards as set forth for amusement and recreation facilities<sup>8</sup> shall apply for all public recreation facilities.
- C. Storm Drainage and Storm Detention Facilities: A storm drainage facility and/or storm detention facility that are an accessory use to a roadway on the same property shall be exempt.
- D. Underground Utilities: Underground utilities within an easement or within a public street right of way shall not require additional approval.
- E. Correctional Facilities: Any privately owned correctional facility designed for residence by incarcerated individuals shall meet the following standards:
  - 1. No structure or outdoor recreation area shall be located within one thousand feet (1,000') of a property line that abuts a residential area.
  - 2. No structure or outdoor recreation area shall be located within one thousand feet (1,000') of a public or private school, daycare center, or church.

**5-3-59: RACETRACK, VEHICLE OR ANIMAL:**

- A. If the racetrack provides animal boarding, such facilities shall be subject to the regulations of Section 5-3-9, "Animal Boarding with Outside Runs", of this chapter. If the racetrack provides horse boarding, such facilities shall be subject to the regulations in Section 5-3-73, "Stable Or Riding Arena, Commercial", of this chapter.
- B. All structures or outdoor activity areas shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential district.
- C. Accessory retail uses including, but not limited to, retail shops and food or beverage service, may be allowed if designed to serve patrons of the facility only, and is approved by the Southeastern Idaho Public Health Department and the applicable fire authority.

**5-3-60: RECREATIONAL VEHICLE PARK:**

- A. Use Of Spaces: Spaces may be used by recreation vehicles, tents, or other shelter arrangements or devices.

B. Accessory Uses: Accessory uses including, but not limited to, management headquarters, recreational facilities, caretaker dwelling, coin operated laundry facilities, toilets, and showers may be allowed, subject to the following restrictions:

1. Such uses shall be restricted in their use to occupants of the park.
2. The structures housing such uses shall not be located closer than one hundred feet (100') to any public street and shall not be directly accessible from any public street but shall be accessible only from a drive within the park.

C. Design Standards:

1. The park shall have direct access to a collector or arterial street. No entrance or exit shall be permitted which moves traffic from the park through a residential area.
2. Internal drives shall meet the drive standards required for a manufactured home park.
3. The applicant shall indicate the specific location of each proposed space on the site plan.
  - a. All recreational vehicle spaces shall have an all-weather surface and be drained to prevent standing water.
  - b. Spaces shall be a minimum size of one thousand five hundred (1,500) square feet.
  - c. Recreational vehicles shall not be located closer than ten feet (10') to any other recreational vehicle, structure, manufactured home, public street, or property line.
  - d. Recreational vehicle spaces shall not be located in any required off street parking space or required yard.
4. A dump station for discharging wastewater holding tanks shall be provided unless each space is equipped with a sewer connection. Such discharge facilities shall be approved by the Southeastern Idaho Public Health Department.

#### **5-3-61: RECYCLING CENTER:**

- A. Outdoor storage areas shall comply with Section 5-3-54 of this chapter. No storage, excluding truck trailers, shall be visible above the required screening material.
- B. Except for afterhours donation containers, no unsorted material shall be stored outdoors.
- C. Any container provided for afterhours donation of recyclable materials shall be a minimum of fifty feet (50') from a residential area, shall be of sturdy, rustproof construction, and shall have sufficient capacity to accommodate materials collected.
- D. Power driven processing (including, but not limited to, aluminum foil and can compacting, baling, plastic shredding, or other light processing activities necessary for efficient temporary storage and shipment of materials) may be allowed when located within an enclosed structure.
- E. All recycling center grounds and facilities shall be maintained in an orderly manner so as not to create a public nuisance.

#### **5-3-62: RECYCLING PLANT:**

All recycling plant grounds and facilities shall be maintained in an orderly manner so as not to create a public nuisance.

#### **5-3-63: RESIDENTIAL CARE FACILITY:**

- A. The owner of the facility shall secure and maintain a license from the Idaho Department of Health and Welfare, Facility Standards Division.



- B. Accessory retail uses including, but not limited to, retail shops, food or beverage service, and personal service shops, may be allowed if designed to serve residents and/or staff only.
- C. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

5 **5-3-64: RETAIL SALES, RELATING TO AN APPROVED USE:**

Accessory retail sales shall be allowed for an approved commercial or industrial use. The area devoted to retail sales shall not occupy more than twenty five percent (25%) of the gross floor area of the approved use. Unless otherwise permitted in this ordinance or as a condition of approval.

**5-3-65: ROADSIDE PRODUCE STAND:**

- 10 A. The stand shall sell produce that is grown on the site or on neighboring properties.
- B. Sales shall be conducted on a temporary or seasonal basis.
- C. Access to the roadside produce stand shall be from a roadway and shall be approved by the Oneida County Road and Bridge Department.
- D. Off street parking shall be provided as per Chapter 4, Article E of this ordinance.
- 15 E. Roadside produce stands that do not meet these standards must apply for temporary use approval for a seasonal stand.

**5-3-66: SANITARY LANDFILL, RESTRICTED:**

- 20 A. All structures shall be located a minimum of three hundred feet (300') from any property line. Active landfill disposal sites shall be located a minimum of one thousand feet (1,000') from any residential area.
- B. The use shall comply with all applicable overlay districts as set forth in Chapter 3 of this ordinance.
- C. The decision-making body may specify definite time limits for daily operation and for termination of such use.
- 25 D. The applicant shall comply with all applicable regulations pertaining to designation, licensing, and maintenance of restricted sanitary landfills and disposal sites as set forth in Idaho Code title 31, Chapter 44; and Idaho Code title 39, Chapters 65, 70, and 74.
- E. All structures shall comply with the height.
- F. All off street parking shall be provided as per Chapter 4, Article E of this ordinance.
- 30 G. Additional practices, uses and related improvements that reduce waste levels shall be considered ancillary to a restricted landfill.

**5-3-67: SAWMILL, LUMBER MILL, OR PLANING MILL:**

- A. There shall be a one-thousand-foot (1,000') separation from the mill structure and any residential area.
- B. Outdoor storage areas shall comply with Section 5-3-54 of this chapter.

**5-3-68: SCHOOL, PUBLIC OR PRIVATE:**

- 35 A. Locations for public school sites shall be determined in conformance with the comprehensive plan. The following location criteria shall apply unless in conflict with the comprehensive plan:
  - 1. Elementary schools shall take access off a local street.
  - 2. Middle schools, junior high schools, and senior high schools shall take access off a designated arterial or collector street.

3. No elementary, middle, or junior high schools shall abut a commercial or industrial use.

4. No school shall be located in a floodplain or adjacent to a hazardous land use.

B. All structures shall meet a minimum setback of forty feet (40') from any public street and thirty feet (30') from any other property line.

- 5 C. Accessory uses including, but not limited to, daycare centers, community services, social services, meeting facilities for clubs and organizations, and administrative offices for the individual school facility may be allowed.

**5-3-69: SCHOOL, VOCATIONAL OR TRADE:**

- 10 A. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

**5-3-70: SHOOTING RANGE:**

A. Written Approval: The applicant or owner shall obtain written approval from the Federal Bureau of Alcohol, Tobacco, and Firearms.

B. Outdoor Range:

- 15 1. The site plan shall designate the layout of the range including, but not limited to, shooting platforms, targets, target backstops, and berms.
2. The range shall be designed and located so no ammunition travels off site.
3. The applicant shall provide written documentation that the proposed target backstops conform to the standards for outdoor ranges in "The NRA Range Source Book" published by the National Rifle Association.
- 20

C. Indoor Range:

1. All related activities shall be housed totally within an enclosed structure and designed with full consideration for safety and noise factors involved in the type of use.
2. If located on the ground level, accessory uses such as gun sales, gun repair, and training courses may be allowed when such uses take up no more than twenty five percent (25%) of the gross floor area on the ground level.
- 25 3. If gun sales or gun repair are conducted within the facility, the owner of the indoor shooting range shall secure and maintain a valid federal firearms license from the Bureau of Alcohol, Tobacco, and Firearms.
- 30 4. The applicant shall provide written documentation that the proposed target backstops conform to the standards for indoor ranges in "The NRA Range Source Book" published by the National Rifle Association.

D. Alternative Development Proposal: The director may approve, or recommend approval of, an alternative development proposal when the overall design, as proposed by the applicant, meets or exceeds the intent and the requirements of this chapter and shall not be detrimental to public health, safety, and welfare.

35

**5-3-71: SLAUGHTERHOUSE:**

A. Location: A Slaughterhouse facility shall only be established in an Agricultural zoning district.

40 B. Environmental Compliance: All operations shall comply with environmental regulations, requirements, and permits imposed by state or federal law or any regulatory agency.



C. Animal Waste and Utilities: Animal waste management systems, corrals, wells, and septic systems shall conform to all applicable regulations

1. Waste systems shall not be located closer than:

- a. 1,320 feet from an existing residence.
- b. 500 feet from a well.
- c. 300 feet from a public right-of-way.
- d. 100 feet from property lines.

D. Setbacks and Separation Distances:

1. All buildings, feed storage areas, feed bunks, and feed racks shall be setback a minimum of 100 feet from property lines and public rights-of-way.

2. No Slaughterhouse facility shall be approved within:

- a. 1.25 miles of a Residential zoning district, Rural Residential zoning district, subdivision or unincorporated townsite.
- b. 1.5 miles of any waterways.

3. No Slaughterhouse facility shall be located within a FEMA designated floodplain or aquifer recharge area.

E. Lighting: Lights shall be placed and shielded to direct the light source downward and inward, ensuring glare does not extend beyond the property lines.

F. Odor, Noise and Screening:

1. Slaughterhouse facilities shall employ best available technologies to minimize odor and noise.

2. A minimum 50-foot landscaped buffer or solid fence shall be installed where the site adjoins residential property or is visible from a public right-of-way.

G. Live Animal Storage: Live animal holding areas shall comply with state of Idaho regulations and this Development Ordinance. Slaughterhouse facilities shall comply with the applicable Animal Feeding Operation regulations contained in this Development Ordinance.

H. Licensing and Inspections: Applicants must demonstrate compliance with USDA, Idaho State Department of Agriculture and Idaho Department of Environmental Quality regulations before commencing operations.

I. By-Product Disposal:

1. All Slaughterhouse facilities shall dispose of animal by-products, offal, blood, fat, and waste in compliance with USDA and Idaho Department of Environmental Quality regulations.

2. Disposal methods shall prevent groundwater contamination, vector attraction, and odor emissions, and may include rendering, composting, or other USDA-approved waste treatment methods.

J. Minimum Parcel size shall be at least 5 acres.

#### **5-3-72: SOIL OR WATER REMEDIATION:**

The following standards apply to establishments that import soil and/or water for remediation. The standards do not apply to in situ remediation of soil and/or water.

A. The minimum property size shall be forty (40) acres.

B. The applicant or owner shall obtain written approval from the State of Idaho Division of Environmental Quality. The approval shall make specific reference to the location, substance being treated, method of treatment, monitoring methods, and ability of the site to support the proposed use.

C. The applicant or owner shall obtain written approval from Southeastern Idaho Public Health Department.

5 D. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article C of this ordinance.

E. All structures shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential area or approved hospital use.

10 **5-3-73: STABLE OR RIDING ARENA, COMMERCIAL:**

A. Any establishment that meets one or more of the following criteria shall be deemed a commercial use and shall require conditional use approval:

1. The riding arena is open to the public, a homeowners' association, or a club.

15 2. The riding arena is for private use but is enclosed within a structure that exceeds twenty four feet (24') in height and/or the total area of the structure exceeds two thousand (2,000) square feet.

3. The riding arena can be rented by an individual or group.

4. Spectator seating for more than fifty (50) people is provided at the arena.

5. Retail sales accessory to the stable or riding arena are conducted on site.

6. Group lessons are provided to the public for a fee.

20 B. All commercial riding arenas and commercial stables shall provide sufficient parking and turnaround areas for horse trailers. Such areas shall be designed to preclude vehicles from backing out into a roadway.

C. The minimum property size for commercial stables or commercial riding arenas shall be five (5) acres.

25 D. Only off-site catering is permitted, and must be approved by the Southeastern Idaho Public Health Department.

E. Commercial stables or commercial riding arenas shall not be classified as an Agricultural Building.

**5-3-74: STORAGE FACILITY, SELF-SERVICE:**

A. Storage areas shall not be used as dwellings or as a commercial or industrial place of business. The manufacture or sale of any item from or at a self-service storage facility is specifically prohibited.

30 B. The distance between structures shall be designed to allow a twelve-foot (12') travel lane for emergency vehicles to pass while tenant's vehicles are parallel parked (9 foot width) at the entrance to their storage areas.

C. The perimeter of the storage facility shall be completely fenced, walled, or enclosed and screened from public view. Fencing materials shall complement the exterior building materials.

35 D. No structure, facility, drive lane, parking area, nor loading area shall be located within twenty feet (20') of a residential area unless a six-foot (6') sound reduction wall is provided.

E. If abutting a residential area, the facility hours of public operation shall be limited to seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M.

40 F. Storage of any hazardous materials as defined by Title 40 Code of Federal Regulations, Part 261, or subsequent amendments thereto, shall be prohibited.



**5-3-75: TOWER OR ANTENNA STRUCTURE, COMMERCIAL:****A. Applicability:**

1. The following regulations shall apply to tower structures and associated equipment for the purpose of commercial radio, television, telephone, paging, or satellite reception and/or transmission.
2. A facility that meets the following standard shall be reviewed as an accessory use. Any other facility shall be reviewed as a conditional use.
  - a. Collocation of new antenna and/or equipment for an approved tower structure, commercial shall be deemed an accessory use and shall require a building permit prior to installation.

**B. General Standards for Commercial Tower Structures And Associated Equipment:**

1. Radio Frequency Emissions: The facility shall comply with FCC standards regarding radio frequency (RF) emissions.
2. Approval Required: The facility shall have approval from the Federal Aviation Administration and the chief of the Idaho Bureau of Aeronautics prior to operation.
3. Permits Required: The applicant or owner shall be required to obtain all necessary permits, as may be required under federal, state or local statutes, regulations, or ordinances including, but not limited to, building permits.
4. Maintenance Of Facility: The facility shall be maintained in compliance with all federal, state, and local regulations and the construction standards set forth in this Section.
5. Public Nuisance Prohibited: The owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.
6. Outdoor Storage Areas: The proposed facility shall meet the standards for outdoor storage areas in Section 5-3-54 of this chapter.
7. Conditional Use Approval: For any facility requiring conditional use approval, the director shall notify all property owners within a minimum of one thousand feet (1,000') of any property boundary (or lease boundary lines, if applicable) of the proposed site.
8. Removal: The tower and associated facilities shall be removed within sixty (60) days of cessation of use.
9. Tower Construction, Setback, And Fall Zone Standards:
  - a. The tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards For Steel Antenna Supporting Structures", or as hereinafter may be amended.
  - b. Towers over twenty feet (20') in height must be designed to allow for future arrangements of antennas upon the tower. Such towers must also be designed to accept antennas mounted at varying heights.
  - c. If the tower does not exceed the height limitations pursuant to this ordinance, the tower shall meet the setback requirements of the district. If the tower exceeds the height limitation, the tower shall meet the setback requirements or it shall be set back one foot (1') for every ten feet (10') of total tower height from all property lines, whichever is greater.
  - d. In addition to the setback requirement noted in the preceding paragraph, a fall zone for each tower shall be delineated and permanently restricted from future development, as follows:

(i) The fall zone shall consist of the land area centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower height.

(ii) If the fall zone does not lie completely within the subject property, the applicant must obtain a nonrevocable easement from all owners of property within the fall zone that prohibits the construction or placement of new structures within the fall zone, except as may be specifically permitted through the conditional use process. If an easement is utilized, a copy of the fully executed easement agreement shall be submitted as part of the application.

e. Towers shall be architecturally and visually compatible with the existing structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the comprehensive plan. The decision-making body shall consider, but shall not be limited to, the following factors: similar height, color, bulk, and/or shape, or camouflage techniques to disguise the facility. This shall not preclude towers requiring FAA painting and/or marking from meeting those standards.

C. Application Requirements: The application materials shall include the following written documentation:

1. Suitability Analysis of The Proposed Site: The analysis shall include, but is not limited to, the following:

- a. Description of the surrounding area within one mile of the subject site including topography;
- b. Propagation charts showing existing and proposed transmission coverage at the subject site and within an area large enough to provide an understanding of why the facility needs to be placed at the chosen location.

2. Signed Lease Agreement: If applicable, relevant portions of a signed lease agreement that requires the applicant to remove the tower and/or associated facilities upon cessation of use.

D. Additional Application Requirements for Facilities That Require A Conditional Use Approval:

1. Engineering data showing that the tower is designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of one additional user if the tower is over twenty feet (20') in height. If the tower is over one hundred ten feet (110') in height, it shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of two (2) additional users.

2. A report from a qualified and licensed professional engineer that describes the facility height and design (including a cross Section and elevation); documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; describes the facility's capacity; and any other information necessary to evaluate the request. The report must include the engineer's stamp and registration number.

3. A letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this title, if additional users agree in writing to meet reasonable terms and conditions for shared use.

4. Written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within:

- a. A two (2) mile radius for towers with a height over one hundred ten feet (110');



- b. A one-mile radius for towers with a height over eighty feet (80'), but not more than one hundred ten feet (110');
- c. A one-half ( $\frac{1}{2}$ ) mile radius for towers with a height over fifty feet (50'), but not more than eighty feet (80'); or
- 5 d. A one-fourth ( $\frac{1}{4}$ ) mile radius for towers with a height of fifty feet (50') or less.
- 5. It shall be the burden of the applicant to demonstrate that the proposed facility cannot be accommodated on an approved tower or structure within the required search radius due to one or more of the following reasons:
  - a. Unwillingness of a property owner, or tower or facility owner to entertain shared use.
  - 10 b. The planned equipment would exceed the structural capacity of the existing tower or structure, as documented by a qualified and licensed professional engineer, and the existing tower or facility structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - 15 c. The planned equipment would cause radio interference with material impacting the usability of other existing or planned equipment at the tower or structure, and the interference cannot be prevented at a reasonable cost as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
  - d. Existing or approved towers or other structures within the search radius cannot accommodate the planned equipment at a height necessary to be commercially functional as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
  - 20 e. The proposed collocation with an existing tower or structure would be in violation of a local, state, or federal law.
  - 25 f. Any other unforeseen reasons that make it unfeasible to collocate upon an existing or approved tower or structure as documented by a qualified and licensed professional engineer, or other professional qualified to provide necessary documentation.

**5-3-76: TOWER OR ANTENNA STRUCTURE, PRIVATE:**

A. Applicability: The following regulations shall apply to tower structures for the purpose of private radio, television, or satellite reception and antennas for amateur radio. Towers shall not be subject to the accessory structure regulations of Section 5-3-2 of this chapter.

**B. General Standards:**

- 1. The tower or antenna structure is only for private, not commercial, use.
- 2. The tower or antenna structure is accessory to a permitted or approved use.
- 3. If the tower structure is less than six feet (6') in height and/or does not exceed the height limit pursuant to this ordinance, it shall not require administrative approval.
- 35 4. Any tower over six feet (6') in height shall not be located within the front yard or in any required yard.
- 5. The applicant shall provide verification of compliance with the regulations and requirements of the following agencies, as applicable:
  - 40 a. Federal Aviation Administration.
  - b. Idaho Transportation Department (Bureau of Aeronautics).

6. An amateur radio tower for a licensed amateur radio operator that exceeds the height limit for structures shall require accessory use approval by the Administrator. The applicant must be a licensed amateur radio operator. Any other tower that exceeds the height limit for structures in the applicable base district shall require conditional use approval.

5 C. Tower Construction Standards:

1. Within proximity to an airport, the height limit on the tower shall be as required by the code of federal regulations 14 CFR 77.
2. If the tower does not exceed the height limitations, the tower shall meet the setback requirements of the district.
- 10 3. If the tower exceeds the height limitation, the following standards shall apply:
  - a. The tower shall meet the setback requirements of the district, or it shall be set back one foot (1') for every ten feet (10') of total tower height from all property lines, whichever is greater.
  - b. The applicant shall submit a report from a qualified and licensed professional engineer and installed in accord with the manufacturer's specifications that describes the facility height and design (including a cross Section and elevation). The report must include the engineer's stamp and registration number.
  - 15 c. The applicant shall provide a copy of the notice of construction filed with the Federal Aviation Administration (FAA).
  - d. A fall zone for each tower shall be delineated and permanently restricted from future development, as follows:
    - 20 (i) The fall zone shall consist of the land area centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower height.
    - 25 (ii) If the fall zone does not lie completely within the subject property, the applicant must obtain a nonrevocable easement from all owners of property within the fall zone that prohibits the construction or placement of new structures within the fall zone, except as may be specifically permitted through the conditional use process. If an easement is utilized, a copy of the fully executed easement agreement shall be submitted as part of the application.
- 30 4. Towers not requiring FAA painting and/or marking shall have either a galvanized finish or shall be painted a noncontrasting blue, gray, or black finish. Alternative colors or finish materials may be approved by the Administrator.

**5-3-77: VEHICLE IMPOUND YARD:**

A. Screening:

- 35 1. Outdoor storage and outdoor activity areas shall comply with Section 5-3-54 of this chapter. The fence or wall and screening materials shall be a minimum of ten feet (10') in height.
2. No portion of the vehicle impound yard outdoor storage areas and/or outdoor activity areas may be visible from any "highway", "principal arterial", or "minor arterial".
- 40 3. All materials or parts shall be stored and located within the fenced or walled area. No vehicles or materials shall be stored so they exceed the height of the fence or wall.

B. Site Related Standards:



1. All structures or outdoor activity areas shall be located a minimum of three hundred feet (300') from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential area district.
- 5 2. No person shall establish, operate, or maintain a vehicle impound yard, any portion of which is within one thousand feet (1,000') of the nearest edge of the right of way and visible from any "highway", "principal arterial", or "minor arterial" as herein defined.
3. The use shall comply with the flood hazard overlay district as set forth in Chapter 3, Article B, of this ordinance.

**5-3-78: WELDING SHOP:**

- 10 A. All welding, cutting, grinding, and fabrication activities shall occur within an enclosed structure unless otherwise authorized through the conditional use permit.
  1. All structures shall meet the setback requirements of the underlying zoning district.
  2. Additional setbacks or buffering may be required where necessary to protect adjacent uses.
- 15 B. The site shall be maintained in a clean, orderly, and safe condition. Accumulation of junk, scrap, or inoperable equipment outside approved areas is prohibited.
- C. The use shall not create noise that constitutes a nuisance or unreasonably interferes with surrounding properties.
- D. Emissions of fumes, smoke, dust, or particulate matter shall be controlled so as not to create a nuisance or hazard beyond the property boundary.
- 20 E. Exterior lighting shall be shielded and directed downward to prevent glare or light trespass onto adjacent properties or public rights-of-way.
- F. The use shall not produce vibration detectable beyond the property boundary.
  1. Outdoor storage shall be limited to areas approved under the conditional use permit.
  2. Stored materials shall be maintained in an orderly manner at all times.
- 25 G. Screening, including fencing, landscaping, or berms, shall be installed and maintained where required to mitigate visual impacts.
- H. The use shall provide adequate ingress and egress to ensure safe traffic movement.
- I. Access and driveways shall comply with applicable county road standards.
- J. Road improvements, turnarounds, or dust control measures may be required where necessary to mitigate impacts.
- 30 K. Hazardous materials, including fuels and compressed gases, shall be stored, handled, and disposed of in accordance with applicable local, state, and federal regulations.
- L. Secondary containment or other protective measures shall be required where necessary to prevent contamination or hazards.

**35 5-3-79: WINERY:**

A. Standards for Wineries:

1. The winery shall comply with all applicable state, federal, and local regulations.
2. The property shall have access and frontage on a public road.
3. A tasting room is only allowed on property when part of a winery.

4. Retail sales may be permitted for items associated with the winery.

#### 5-4 CONCEPT PLAN REQUIREMENTS

The following concept plan requirements apply to all conditional use permits:

- 5 A. Conceptual Development Plan Approval: At the time of conditional use application for a conceptual development plan, the following items are required in addition to the items outlined on the conditional use checklist:
  1. A conceptual development plan, in lieu of the site plan, that shows:
    - a. Existing structures, uses, parking layout and traffic circulation;
    - b. Calculations of existing and required parking for each existing structure and/or use;
    - 10 c. The general location of proposed new structures and/or uses and their required parking facilities in relation to existing or proposed traffic circulation patterns;
    - d. Any existing easements or rights of way within one hundred feet (100') of the conceptual area of development;
    - e. The maximum requested level of residential development;
    - 15 f. The location and capacities of firefighting resources on site; and
    - g. The location of wells, septic systems, and/or reserve septic systems, if applicable.
  2. A detailed letter describing the nature of the request. The narrative should include:
    - a. Proposed use(s);
    - b. List of proposed allowed ancillary use(s);
    - 20 c. List of proposed ancillary use(s) allowed by conditional use; and
    - d. A written statement describing the off-street parking and loading plan.
- C. Conceptual Development Plan Terms Of Approval: The terms of approval for the conditional use permit for the conceptual development plan shall include the following:
  - 25 1. A maximum time frame, as established by the decision-making body, during which time the conceptual development plan shall be valid. The use must commence, or a building permit must be issued within two (2) years of the date of approval for the conditional use permit.
  2. A listing of allowed ancillary use(s) approved as part of the permit.
  3. A listing of ancillary use(s) allowed by an additional conditional use permit prior to development of the specific use(s).
  - 30 4. Written statement regarding the level of modifications and/or expansions to the approved plan to be allowed without additional conditional use.
  5. The hours and days of operation. for areas open to the public.
  6. The approved parking standards per Chapter 4, Article E, of this ordinance, if applicable.
  - 35 7. Residences shall only be for use of employees of the facility, except as specifically allowed under the terms of approval.



D. Allowed Ancillary Uses: At the time of building permit and/or zoning certification for allowed ancillary use(s), the owner and/or applicant shall:

1. Submit an application for an addendum and the endangered or protected species ancillary use checklist.
2. Payment of the application fee.
3. Provide an updated table of existing and required parking for the site.
4. Southeastern Idaho Public Health Department approval of any proposed facilities under their jurisdiction.
5. Provide a written statement from the applicant that a valid U.S. Fish and Wildlife Service permit for an endangered or protected species research facility remains in effect.
6. Provide a written statement explaining how the ancillary use conforms to the approved conceptual development plan.

E. This only pertains to Ancillary Uses Requiring A Conditional Use: At the time of application for ancillary uses requiring a conditional use, the following items are required in addition to the items required on the conditional use checklist:

1. In lieu of a conceptual development site plan, a detailed site plan of the affected area(s) showing:
  - a. Existing uses, buildings and parking facilities;
  - b. Proposed uses, buildings and parking facilities;
  - c. Existing easements or rights of way within one hundred feet (100') of the conceptual area of development;
  - d. The maximum square footage requested for the ancillary use(s);
  - e. Location of wells and septic system.
2. The applicant shall also provide in writing:
  - a. Approval of Southeastern Idaho Public Health Department, if applicable;
  - b. A statement regarding the off-street parking and loading plan and conformance to the approved conceptual development plan; and
  - c. Provide a statement explaining how the use conforms to the approved conceptual development plan.
3. Payment of the conditional use application fee based on the square footage of the proposed structure(s).

**Article A: Conditional Uses:**

5A-1 Purpose

5A-2 Applicability

5A-3 Minimum Standards

5 5A-4 General Provisions

5A-5 Impact Report

5A-6 Conditions of Permit

5A-7 Required Standard Conditions of Approval

5A-8 Required Findings

10 5A-9 Time Limitation for Construction

5A-10 Multiple Use on One Parcel

5A-11 Violations

**5A-1 Purpose:**

- 15 Every use that requires a conditional use permit is declared to possess characteristics such as to require review and appraisal by the Commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons, property, or natural resources in the vicinity. It is the responsibility of the applicant to present plans to implement a conditional use in a way which will not harm existing or potential use of nearby lands or place additional demands on public services.

20 **5A-2 Applicability:**

A. The regulations of this chapter shall apply to any use that requires conditional use approval as noted in Section 2A-3 of this title.

B. Any modification or expansion of a previously approved conditional use shall require a new conditional use approval.

- 25 C. A conditional use permit is granted to the subject property and shall remain valid upon change of ownership with all attached conditions. Conditional use permits are not transferable from one parcel to another. If an allowed conditional use permit is abandoned for more than 12 months, it shall expire. Any attempts to resume operation without a current conditional use permit is a violation of the ordinance. The subsequent property owner or operator must provide evidence of proper licensing to the
- 30 Administrator.

**5A-3 Minimum Standards:**

An approved conditional use permit shall at least meet the minimum bulk standards, such as, but not limited to, setback requirements, lot size and building height as required within Section 2A-4 of this title.

Exceptions to those requirements may be sought as part of the conditional use permit process.

35 **5A-4 Impact Report:**

A. An impact report shall be required for all proposed Conditional Uses.

B. The impact report shall address potential environmental, economic, and social impacts and how these impacts are to be minimized as follows:

- 40 1. When a conditional use permit application is submitted in conjunction with a planned unit development application identify traffic volume, character, and patterns including adequacy of existing or proposed street width, surfacing, alignment, gradient, and traffic control features or devices, and maintenance. Contrast existing with the changes the proposal will bring during construction and after completion, build-out, or full occupancy of the proposed development.



Include pedestrian, bicycle, auto, and truck traffic.

2. Provision for the mitigation of impacts on housing affordability.
3. Noise and vibration levels that exist and compare to those that will be added during construction, normal activities, and special activities. Include indoor and outdoor, day and night variations.
- 5 4. Heat and glare that exist and that might be introduced from all possible sources such as autos in parking areas, outdoor lights, water or glass surfaces, buildings or outdoor activities.
5. Particulate emissions to the air including smoke, dust, chemicals, gasses or fumes, etc. both existing and what may be added by the proposed uses.
- 10 6. Water demand, discharge, supply source, and disposal method for potable uses, domestic uses, and fire protection. Identify existing surface water drainage, wetlands, flood prone areas and potential changes. Identify existing ground water and surface water quality and potential changes due to this proposal.
7. Fire, explosion, and other hazards existing and proposed. Identify how activities on neighboring property may affect the proposed use.
- 15 8. Removal of existing vegetation or effects thereon including disturbance of wetlands, general stability of soils, slopes, and embankments and the potential for sedimentation of disturbed soils.
9. Include practices that will be used to stabilize soils and restore or replace vegetation.
10. Soil characteristics and potential problems in regard to slope stability, embankments, building foundation, utility and road construction. Include suitability for supporting proposed landscaping.
- 20 11. Site grading or improvements including cuts and fills, drainage courses and impoundments, sound and sight buffers, landscaping, fencing, utilities, and open areas.
12. Visibility from public roads, adjoining property, and buildings. Include what will be done to reduce visibility of all parts of the proposal but especially cuts and fills and buildings. Include the effect of shadows from new features on neighboring property.
- 25 13. Reasons for selecting the particular location including topographic, geographic and similar features, historic, adjoining land ownership or use, access to public lands, recreation, utilities, streets, etc., in order to illustrate compatibility with and opportunities presented by existing land uses or character.
14. Approximation of increased revenue from change in property tax assessment, new jobs available to local residents, and increased local expenditures.
- 30 15. Approximation of costs for additional public services, facilities, and other economic impacts.
16. State how the proposed development will impact existing developments providing the same or similar products or services.
- 35 17. State what natural resources or materials are available at or near the site that will be used in a process to produce a product and the impacts resulting from the depletion of the resource. Describe the process in detail and describe the impacts of each part.
18. What will be the impacts of a project abandoned at partial completion?
19. Number of residential dwelling units, other buildings and building sites, and square footage or gross non-residential floor space to be available.
- 40 20. Stages of development in geographic terms and proposed construction time schedule.
21. Anticipated range of sale, lease or rental prices for dwelling units, building or other site, or non-residential floor space in order to insure compatibility with adjacent land use and development.

**5A-5 General Provisions:**

Conditional uses shall require a public hearing by the Planning and Zoning Commission and may be permitted only after proper application, review, approval and conformance to the conditions of approval. Conditional uses are listed under Section 2A-3 of this title.

**5 5A-6 Conditions of Permit:**

In recommending approval of any conditional use permit, the Commission may prescribe appropriate conditions, bonds, and safeguards in conformity with this Ordinance or the comprehensive plan. Conditions may include, but shall not be limited to, specific requirements that:

- A. Minimize adverse impacts on other development.
- 10 B. Control the sequence and timing of development.
- C. Control the duration of development.
- D. Assure that development is maintained properly.
- E. Designate the exact location and nature of development.
- F. Require the provisions for on-site public facilities or services.
- 15 G. Require more restrictive standards than those generally required in this Ordinance.
- H. Require mitigation of effects of the proposed development upon service delivery by any political subdivision; including school districts providing services within the planning jurisdiction.
- I. Require financial guarantees.

**5A-7 Required Standard Conditions of Approval:**

- 20 A. The property must be in compliance (or brought into) compliance with all applicable Idaho State Statutes and Oneida County Ordinances prior to commencement of approved conditional use activity. All permits must be secured prior to commencement of work subject to permit approval;
- B. Applicant must provide proof of property ownership or valid leasehold from the property owner;
- C. Property taxes must be current;
- 25 D. Applicant must provide proof of legal access and proof of the authority to alter/improve the access to accommodate fire and ambulance services must be provided prior to commencement of work;
- E. Fire Department vehicular access shall meet the standards as set forth in the "Highway Standards and Roadway Development Procedures for Oneida County";
- 30 F. The Applicant will provide necessary information to Southeastern Idaho Public Health in order to obtain their comment. Further, Applicant will comply with any required conditions imposed by Southeastern Idaho Public Health Department;
- G. Where applicable the Applicant shall identify the days and hours of operation of conditional use permit activity;
- H. Building construction shall meet the requirements of the Idaho Building Code Act, Idaho Code Title 39, Chapter 41 and any other building code requirements of Oneida County;
- 35 I. Applicant shall prepare and present to the county its emergency services (specifically, but not limited to, fire and ambulance services) action plan;
- J. The approved conditional use permit (CUP) shall be considered null and void if it is not started within a period of twelve months from the date of approval by the commission.

40



- K. Prior to the expiration of the conditional use permit, the Planning and Zoning Administrator may, upon written request by the holder, grant a one-year extension. A maximum of three (3) extensions may be granted. Denial of an extension is appealable to the Board of Oneida County Commissioners;
- 5 L. Prior to granting a request for extension, the P&Z Department shall review the conditional use to determine Applicant's compliance with these Conditions of Approval. If, after investigation by the P&Z Department, it is determined that the Applicant is non-compliant, a review before the Oneida County Planning and Zoning Commission shall be scheduled for public hearing and with public notice. The hearing shall be for the purpose of modifying, amending or revoking approval of
- 10 Applicant's Conditional Use Permit;
- M. CUP approval does not include approval of any signage. A separate Sign Permit will be required from the Oneida County P&Z Department prior to installation of sign(s);
- N. The Applicant shall comply with any and all applicable requirements of the U.S. Army Corps of Engineers;
- 15 O. No change in the terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his authorized representative, and an authorized representative of Oneida County, and upon approval of the change by the Commission. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Oneida County;
- 20 P. Any change by the applicant in the planned use of the property which is the subject of this application, shall require the applicant to comply with all rules, regulations, ordinances, plans, or other regulatory and legal restrictions in force at the time the applicant or its successors in interest advises the County of its intent to change the planned use of the property described herein unless a variance in said requirements or other legal relief is granted pursuant to the law in effect at the time the change in use is sought;
- 25 Q. Notwithstanding building permit or specifically stated timeframes, all development authorized by this conditional use approval must be completed within 5 years (60 months) from the date of the Board's approval, unless extension is denied, in which case development must be completed within the time granted by the initial approval or most recent extension; and
- 30 R. Failure to abide by any condition of this Conditional Use Permit shall be grounds for revocation by the Oneida County Planning and Zoning Commission.

#### **5A-8 Required Findings:**

- A. That the use will in fact, constitute a conditional use as specified in Section 2A-3 or as determined by the Commission/Board.
- 35 B. That the use will be in accordance with the goals and policies of the Oneida County Comprehensive Plan.
- C. That the use will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character and uses of the vicinity and that such use will not change the essential character of the same area.
- D. That the use will not be hazardous or in conflict with existing neighboring uses.
- 40 E. That the use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, schools, etc., at reasonable marginal cost.
- F. That the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

G. That the use will not involve uses, activities, processes, materials, equipment and conditions or operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, pollution or odors.

5 H. That the use will not have vehicular approaches to the property which create hazardous interference with traffic on surrounding thoroughfares.

I. That the use will not result in the destruction of any significant natural, scenic, or historic feature.

#### **5A-9 Time Limitation for Construction:**

10 Unless a longer time is specifically established as a condition of approval, a conditional use permit shall be considered void twelve (12) months following the effective date of the permit approval if construction is not underway and being diligently pursued toward completion.

#### **5A-10 Multiple Use on One Parcel:**

The Commission may grant more than one conditional use permit to a single parcel of property or may grant conditional use permits to a single parcel of property that currently contains an allowed use.

#### **5A-11 Violations:**

15 The Administrator shall investigate all complaints in regard to noncompliance of the conditions of approval associated with an approved conditional use permit. In the event that noncompliance with the conditions of approval is found and is continuing after due notice to the applicant, the Administrator shall have the authority to order a public hearing before the deciding body, in conformance with Chapter 7, Article A, Sections 4 and 5. At the public hearing, the deciding body shall have the authority to affirm, reverse, modify,  
20 in whole or in part, the approval, or make or substitute any additional conditions that in its deliberations it may find warranted. In order to take action except to affirm the approval, the deciding body must find there is a violation of the conditions of approval of an application within the authority of the deciding body and one or more of the following:

- A. The violation has caused or will cause detriment to the public health, safety, or welfare.
- 25 B. The violation has created or will create undue adverse impact on surrounding properties.
- C. The violation has caused or will cause the approved use to be served by inadequate public or private facilities.
- D. The violation has impeded or will impede the normal development of surrounding property.



## Chapter 6

### Subdivision Regulations:

|    |                                       |                                                                 |
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20

#### 6-1 Purpose:

The purpose of this chapter is to promote and protect the public health, safety, and general welfare of the citizens of this county and the public. The primary function of this chapter shall be to provide a process to review development proposals to assure that public and private facilities are designed and constructed to serve the people that will depend on them and that such development will minimize public costs while protecting the quality of the natural and developed environment. The chapter will also:

- A. Establish standards for land subdivision to provide for the orderly and harmonious development of land in Oneida County;
- B. Ensure the development is in conformance with Idaho Code and with the goals and policies of the Oneida County Comprehensive Plan, the requirements of the Oneida County Development Ordinance, and with the requirements of other agencies;
- C. Ensure the provision of adequate transportation, water and sewage facilities, water drainage, emergency services, fire and police protection and other public services;
- D. Ensure that the impact of subdivision development does not affect the ability of the local jurisdictions or taxing districts, including school districts, to deliver services without compromising their current quality or imposing higher costs upon current residents;
- E. Provide for the administration of these regulations.

#### 6-2 Jurisdiction:

This chapter shall apply to the subdivision of land within Oneida County, including the property within Oneida County as may be agreed upon by Oneida County and any municipality within Oneida County governed by the provisions of Sections 50-1306 and 67-6526, Idaho Code.

**6-3 Applicability:**

This chapter shall apply to every division of land into two (2) or more lots, tracts, parcels, sites or divisions (with the exception of Chapter 4, Article B) regardless of size or purpose, within the jurisdiction of Oneida County.

**5 6-4 Interpretation:**

All proposed subdivision of land shall comply with the regulations of this chapter. The regulations contained in this chapter shall be considered minimum standards. The regulations of this chapter are in addition to all other regulations, and where at variance with other laws, regulations, ordinances or resolutions of the county, or any other governmental body having jurisdiction, the more restrictive requirements shall apply. Furthermore, where appropriate for the protection of public health, safety, convenience or welfare, more stringent standards may be imposed by the Board.

**6-5 Restrictions:**

The following restrictions shall be incorporated in any plat, subdivision, or dedication and each of the requirements hereinafter set forth shall be considered mandatory unless otherwise indicated.

- 15 A. Land, which the Board has found to be unsuitable for subdivision because of flooding, poor drainage, steep slopes, rock formations, availability of lawful provision of primary and secondary water, or other features likely to be harmful to the safety and general health of the future residents and which the Board considers inappropriate for subdivision shall not be subdivided unless adequate methods approved by the Board are included for mitigating these conditions.
- 20 B. In making its determination regarding unsuitability, the Board shall use as a guide, those standards for floodplain, hillside development, traffic, drainage, fire, hydro geologic, noxious weeds, and other topographical features adopted by the Board.
- C. Determination by the Board of unsuitability can be made at any time during the preliminary platting process.
- 25 D. Subdivision In Agriculture District: Minor, Full, and Large Scale subdivisions contained in part or wholly within an agriculture zone shall only be permitted with a density of one residence per forty (40) acres and shall be designed according to all other requirements of this chapter, to include the following:
  - 30 i. Residential lots shall be clustered and may vary in size with a minimum of one (1) acre per lot. However, upon a showing that the physical characteristics of the property prevent clustering, or that clustering would otherwise create an undue hardship on the applicant, then this requirement for clustering may be waived by the Board.
  - ii. Subdivision shall have legal access built to County standards to a County or State maintained road.
  - 35 iii. The recorded plat must include all the land used to determine the number of lots, and all but the permitted lots shall be restricted from residential development, which restriction shall be included on the final plat map and on any deeds for plats contained within the subdivision. (Example: A one hundred sixty (160) acre tract could result in a 5-lot subdivision, with 1 lot being restricted from residential development and the other 4 lots having one allowable residential development each.)
  - 40 iv. These regulations are to be regarded as limitations on the overall density of development in the agricultural district, not as minimum building site or minimum lot size requirements.

**6-6 Process:****A. Pre-application Plat Conference:**



Prior to submittal of a minor, full, or large scale subdivision plat application, the applicant shall have completed a pre-application conference with the Planning and Zoning Administrator to discuss the scope and objectives of the proposal, the overall design possibilities, the character of the building sites to be created, the availability and adequacy of public services, the proposed Development Agreement for the project, and the standards and development criteria applicable to the proposal. Prior to the pre-application conference the applicant shall submit one (1) copy on eleven by seventeen inch (11" x 17") paper, a concept to the Administrator.

The concept plan shall include, but is not limited to, vicinity map, including all properties of record within one-half (1/2) mile of the site; adjacent property map showing existing buildings, roads, irrigation facilities, drainage, and other key natural features; and plat map showing proposed lots, roads, open space, general utilities/services, existing trees over four inch (4") caliper in size, existing buildings, and all waterways (including floodplain, wetlands, etc.). The concept plan shall show all parcels under forty (40) acres that are contiguous to the parcel to be subdivided and are under the same ownership. For a minor subdivision, the Administrator determines which elements of a concept plan are required and which may be omitted.

The Administrator shall schedule and hold the preapplication conference within thirty (30) days from the submittal date unless the applicant agrees to additional time.

A preapplication conference allows the applicant an opportunity to meet with the Administrator and other agency/department representatives deemed appropriate by the Administrator. Items to be reviewed shall include, but are not limited to:

- i. The subdivision process.
- ii. Overall design, lot sizes, and road layout.
- iii. Preliminary utility design.
- iv. Conformity with the comprehensive plan and the development code.
- v. Potential on site and off site impacts/mitigation.
- vi. Off site/on site improvements.

The Administrator may require additional preapplication conferences when the proposed subdivision is extraordinarily complex, proposes large impacts to Oneida County public services, or requires extraordinary department staff time.

The Administrator shall provide the applicant with a written notice to proceed, which includes a statement of issues, concerns, and recommendations deemed important by department staff and participating agencies/departments. The notice to proceed shall be mailed to the applicant within fourteen (14) days of the completion of the preapplication conference.

The notice to proceed allows the applicant to submit an application for subdivision review.

#### **B. Neighborhood Meeting:**

Prior to making any formal application with the Planning and Zoning Department, the property owner, or representative shall conduct a Neighborhood Meeting as required pursuant to Chapter 7, Article A, Section 3.

**C. Application and Fees:**

All applications and fees, as set forth in Chapter 7, Article A, of this ordinance, shall be submitted to the Planning and Zoning Administrator on forms provided by the Planning and Zoning Department. The submitted application shall contain at a minimum the following information:

1. A digital format of the plat may be required by the Administrator or County Surveyor.
2. Codes, covenants, and restrictions, if applicable, shall be submitted concurrent with a combined preliminary/final or final plat application.
4. The preliminary plat application for subdivisions in an overlay district shall contain any additional reports or materials required by Chapter 3 of this ordinance.
5. If an applicant or owner intends to complete the final platting of the subdivision in phases, the proposed phasing shall be submitted with the preliminary plat application.
6. If an irrigation right exists to the property, the applicant shall submit an irrigation plan that is consistent with Idaho Code Section 31-3805.

The Administrator 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 Administrator 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.

**D. Proposed Plat:**

The Commission and Board shall apply the design standards listed in Article A of this chapter and the required improvements listed in Article B of this chapter, and the findings listed in Section 12, of this chapter to review the proposed plat.

**E. Approved Preliminary Plat:**

If approved by the Board, the preliminary plat for a phased subdivision shall include an approval period in which all final plats must be completed.

**F. Preliminary Plat Final Decision:**

A decision of the Board on a preliminary plat shall be final as to all matters set forth in said preliminary plat. This decision may be appealed under the regulations of Chapter 7, Section 7, of this ordinance.

**G. Final Plat Approval:**

Following Board approval of a preliminary plat, the owner may cause the subdivision, or any phase thereof, to be surveyed and a final plat prepared. The owner shall submit a final plat application within twelve (12) months of the Board's approval of the preliminary plat.

**H. Recording Final Plat:**

The owner shall record a final plat and any proposed covenants with the Oneida County Recorder within one year after the Board signs such final plat, otherwise, the approval shall become null and void. For phased subdivisions, the Board may approve final plats for the phases of the subdivision in successive one (1) year intervals.



## I. Time Extension:

The applicant or owner may apply for a time extension, as set forth in Chapter 7, Section 6, of this ordinance, if needed to extend the time allowed to approve the final plat or phase of a final plat, if applicable.

- 5       1. A maximum twelve (12) month extension of the time limit of the approved final plat may be granted by the Board, at its sole discretion, if the following findings are made:
  - a. There are no outstanding city code or plat approval violations on the subject property. If such violations exist, they may be conditioned by the Board to be cured as a condition of the extension of time;
  - 10       b. The final plat, as previously approved, remains in the best interests of the health, safety, and general welfare of the County;
  - c. There have been no significant changes to this code between the date of final plat approval and the application date of the time extension request that would require substantial modifications to the project;
  - 15       d. There are no hazardous conditions which have developed or have been discovered on the project site;
  - e. The public facilities and services required for the project remain adequate;
  - f. The applicant has provided a viable and acceptable plan which demonstrates how recordation of the final plat will occur within the year; and
  - 20       g. The applicant has provided a schedule that depicts the anticipated progress for completion of the final plat within the year.
2. The Board reserves the right to revoke the extension of time approval if it finds that any of the criteria herein are not met.
- 25       3. This section does not limit the number of extensions the Board may grant to an applicant so long as the criteria set forth in Subsection II of this section are met. Nothing in this section requires the Board to grant any extension of an approval period.

## 6-7 Administrative Exceptions:

30       The Administrative Exception procedure applies to those property boundary adjustments or one-time divisions of property as defined in Chapter 1, Article A. All required information for the Record of Survey procedures shall be complete and in acceptable form for consideration of the Administrative Exception. Any further division of the parcel of record will require the minor or full subdivision process to be followed as described in Section 8, of this chapter and shall apply to any portion of the parcel of record.

### A. Types of Administrative Exceptions:

- 35       1. **Property Boundary Adjustment:** A Property Boundary Adjustment is an adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth, or building set back lines of each building site below the minimum zoning requirements, if any, does not change the outside boundary of a subdivision, and does not increase the original number of lots in any block of a recorded plat. The Property Boundary Adjustment shall be in conformance with Chapter 4, Article C.
- 40

**2. Civic Use:**

A division of property owned by a public agency that is being divided for the purpose of transferring property to another public agency. For purposes of this provision "public agency" shall mean a public sector organization, department or entity defined by and part of a governmental body or one chartered by a government body for a public purpose that is funded by public fees or tax dollars. Such public agencies may include, but not be limited to the following: the United States Government, the State of Idaho, Oneida County, municipalities, school districts, hospital districts, library districts, parks or recreational districts, cemetery districts, or any other public agency or department thereof.

**3. Probate Estate or Distribution of Marital Property:**

An allocation of land in the settlement of an estate of a decedent or a court order/deed for the distribution of marital property. Or the sale of land as a result of legal condemnation, as allowed by law. A copy of the Court Order/Decree or Estate shall be provided to the Planning and Zoning Department. The distribution of property shall be in conformance with Chapter 4, Article A, Section 9.

**4. Exchange of Land:**

The exchange of contiguous land for the purpose of modifying property boundaries which does not result in the change of the present land usage of the properties involved so long as it does not change the outside boundary of a subdivision. If such action would change the outside boundary, then the plat procedures shall be followed.

**Widening of Public Streets/Roads:**

Must be in compliance with Chapter 4, Article D.

**5. Acquisition of Right-of-Way by a Public Entity:**

The Planning and Zoning Administrator shall not secure the right-of-way but may exempt any needed permits to be in compliance with all County ordinances. Documentation (i.e. Deed, record of survey, etc.) of the right-of-way acquisition shall be provided to the Planning and Zoning Department.

**B. Review Procedure for an Administrative Exception Application:**

**1. Application:**

Applicant shall file all necessary applications with the Planning and Zoning Administrator along with the required fee. These applications shall be accompanied by the Record of Survey. The County may require additional information if it is found that the information would be beneficial in reaching an informed decision regarding the division of land.

**2. Approval:**

No Administrative Exception shall be granted unless the following conditions have been met:

- a. All parcels have access from a public, private road, or by recorded easement from a public, or private road and clearly delineated on the Record of Survey. All roads must conform to Chapter 4, Article D, and Wildland Urban Interface requirements pursuant to Chapter 3, Article A.
- b. A Record of Survey (Mylar) is prepared and presented to the Planning and Zoning Administrator.
- c. An 8 ½ x 11 paper copy of the Record of Survey is attached to the application and presented to the Planning and Zoning Administrator.



- d. Deeds for the proposed new parcels/lots have been properly prepared and presented to the Planning and Zoning Administrator.
- e. The health authority has reviewed and provided a letter approving the proposed-exception.
- f. The County Treasurer has certified that all taxes have been paid on the parcel to be split.
- g. The County Assessor has certified that parcels are acceptable for assessing and tax purposes.
- h. Other documents as required by each individual type of Administrative Exemption have been received by the Planning and Zoning Department.

3. **Record of Survey (ROS) and Face Notes:**

The Record of Survey (Mylar) shall be submitted to the Planning and Zoning Administrator, meet the criteria according to Title 50, Chapter 13, Idaho Code and shall include the following:

- a. For the Purpose of Subdivision or One Time Division; or
- A statement identified in each type of Administrative Exception

**6-8 Plat Specifications:**

**6-8-1 Minor Subdivision Plats:**

The minor subdivision procedure applies to parcels or tracts which will be divided into no more than four (4) buildable lots on an existing street; not involving any new street or road dedication, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property. Any greater number of parcels, tracts or lot splits requires the subdivider or person responsible for such change to submit a preliminary plat of the entire subdivision being proposed and follow the requirements for full or large scale subdivision plat review as further defined by this Ordinance. Only one (1) minor plat is permitted per original parcel, except for those that have been divided as a one-time division in accordance with Chapter 4, Section B. All required information for both preliminary and final plat procedure shall be complete and in acceptable form for consideration of subdivision. Any further division of the parcel of record will require the full subdivision process pursuant to Section 6-8-2 Full and Large Scale Subdivisions of the Oneida County Development Ordinance.

**A. Application:**

Applicant shall file all necessary applications with the Planning and Zoning Administrator along with the required fee. These applications shall be accompanied by the minor subdivision plat including the signature page. The County may request any/all the Reports/Studies/Plans that are identified in Section 6-10, of this chapter if it is found that the information would be beneficial in reaching an informed decision regarding this division of land. No minor subdivision plat shall be approved unless the following conditions have been met:

- 1. The health authority has reviewed and provided a letter approving the subdivision and/or has certified by an approval signature on the plat or it is clearly stated on the plat that sanitary restrictions are enforced.
- 2. The County Treasurer has certified by an approval signature on the plat that all taxes have been paid on the parcel identified therein.
- 3. The County Assessor has certified by signature on the plat that platting is acceptable for assessing and tax purposes.
- 4. The County Surveyor has certified by signature on the plat that platting complies with Title 50, Chapter 13, Idaho Code relating to plats and surveys, and is also in compliance with this Ordinance. The County shall choose and require an Idaho professional land surveyor

to check the plat and computations thereon to determine that the requirements herein are met and said professional land surveyor shall certify such compliance on the plat. Such certification shall not relieve the professional land surveyor who prepared the plat from responsibility for the plat. For performing such service, the County shall collect from the Applicant a fee as provided by local ordinance reasonably related to the cost of providing such service.

5. If other State, Federal or Local agency have raised unresolved objections those issues shall be placed as conditions on the application and must be resolved by the applicant prior to the Board signing the final Plat.

6. In those areas of Oneida County where approved central sewer and central domestic water facilities acceptable under the standards of this Ordinance are not available, and/or where individual wells and/or individual onsite sewage disposal facilities on each lot would be necessary, the minimum lot size shall be in accordance with the following, which may be subject to upward or downward adjustment upon a determination of other reviewing agencies, that such adjustment either will or will not affect the public health, safety and welfare:

- a. Individual water and individual sewage disposal: One (1) acres or larger;
- b. Central water and central sewage disposal: Less than one (1) acre;

7. Application shall provide evidence of legal access (easement or deed) to the subject property from an approved Oneida County Road or State Highway.

8. Application shall include a vicinity map of the subject property in a scale sufficient to identify the location of the subdivision; which shall, as applicable, include the following:

- a. Subdivision name;
- b. "North" arrow;
- c. Legal description of the subdivision;
- d. Scale (map to be drawn at a scale of 1" = 300' or larger)
- e. A map including an area 600' beyond proposed development or sufficient area around it to provide adequate orientation and landmark identification for someone unfamiliar with the vicinity;
- f. The statement of the intended use of the proposed subdivision, such as residential single-family, two-family and multiple housing, commercial, office, recreational or agricultural and a designation of any sites proposed for parks, playgrounds, schools, churches or other public uses;
- g. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development. A map shall be submitted showing the location of existing buildings, water bodies or courses and the location of currently dedicated streets at the point where they adjoin and/or are immediately adjacent; provided, that actual measured distances shall not be required;
- h. Names of adjoining developments, with locations of intersecting boundary lines;
- i. Location and names of all streets, roadways, and designated, public pathways including the nearest collector or arterial in both north/south and east/west directions. A site report as required by the appropriate health district where individual wells or septic tanks are proposed;



- j. Any proposed or existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants and their respective profiles;
- k. Any dedications to the public and/or easements, together with a statement of location, dimensions and purpose of such; and
- l. Any additional required information for special developments;
- m. Clear identification of the boundary of the proposed development, its proposed roadway alignments and proposed lot lines;
- n. Location of city and/or County limits falling within or adjacent to the proposed development;
- o. Indication of the zoning of site and adjacent properties;
- p. Contour lines, shown at five foot (5') intervals where land slope is greater than ten percent (10%) and at two foot (2') intervals where land slope is ten percent (10%) or less, referenced to an established benchmark, including location and elevation; and
- q. Water features/wetlands.

9. A Fire Plan signed by the applicable Oneida County Fire District. As a minimum, the Fire Plan shall address the following:

- a. Access, ingress and egress, regarding both roadways and driveway standards;
- b. Water Supply Sources;
- c. Building construction with fire safety in mind;
- d. Defensible space;
- e. Fuel types, vegetation on site;
- f. Fire evacuation plan; and
- g. Identify fire protection agency source and funding of same.

10. Latitude and longitude (GIS/GPS data) for the primary subdivision access and all proposed driveway locations or large lot approximate center point shall be identified.

#### **B. Fee:**

All applications and fees, as set forth in Chapter 7, Article A, of this ordinance, shall be submitted to the Planning and Zoning Administrator on forms provided by the Planning and Zoning Department. The Board has the power to assess any additional fees that are necessitated by additional services required of the Planning and Zoning Administrator, Staff, Emergency Service management, County Surveyor and/or Engineer as the circumstances warrant.

#### **C. County Responsibility:**

Within thirty (30) days of receipt of the completed application and filing fee, the Planning and Zoning Administrator shall notify by first class mail at the last known address as disclosed by the current tax rolls, all property owners whose property lies within 1,000 feet of the boundaries of the parcel being divided, and all property owners of land upon which any access easement to the proposed subdivision sets. Any affected property owner may submit objections, concerns and comments regarding the proposed lot, parcel or tract changes to the County within 30 days of the posting of the above notice. The Commission shall order a public hearing to resolve all disputes before final review. Further, the Planning and Zoning Administrator shall forward

copies of the minor subdivision plat and applications to the County Engineer, Emergency Service Management, County Treasurer and County Assessor for review, and other State, Federal and Local agencies deemed appropriate by the Administrator.

**D. Signatures Secured:**

- 5 The Applicant shall secure the appropriate approval signatures on the plat in accordance with Idaho law and this Ordinance.

**E. Plat Notes:**

Face notes will be specified in the final decision of the Board.

**F. Notification for Final Review:**

- 10 The Planning and Zoning Administrator shall notify the Applicant when all requirements have been met. If the applicant and the Administrator disagree as to whether all requirements have been met, the applicant on his own volition can request a hearing before the Commission at the next available meeting the Commission's schedule can accommodate.

**G. Procedures:**

- 15 Upon determination the proposed minor subdivision is in conformance with the development ordinance, the Planning and Zoning Administrator shall schedule the minor subdivision application for review by the Board as a New Business item. Upon review of the Planning and Zoning Administrator's recommendation, the Board shall determine the reasons for approval, conditional approval, denial or referral for modification in accordance with the requirements of Idaho law and the development ordinance. Findings of Fact and Conclusions of Law shall be provided, if applicable.
- 20

**H. Final Review:**

- 25 Copies of the Board's determination shall be promptly furnished to the applicant and to the project surveyor or engineer of record. If such application is approved by the Board, the Board shall notify the Applicant that the decision is not final until the appeal time has lapsed, and he or she may proceed at their own risk prior to the deadline for the filing an appeal.

**I. Recording of Minor Subdivision Plat:**

1. The minor subdivision plat shall be recorded in accordance with Title 50, Chapter 13, Idaho Code.
- 30 2. Any tax parcel which is subsequently subdivided shall have any and all taxes due on that parcel paid in full prior to the County Treasurer placing his/her signature on the minor subdivision plat.
3. The minor subdivision plat shall be recorded within thirty (30) days of signing by the Chairman of the Board or his or her authorized substitute.
- 35 4. Minor subdivision plat recording and copy fees shall be paid by the applicant to the County Clerk at the time of presentation for recording.
- 40 5. Applicant has one year after final approval to present the plat for recordation to the Planning and Zoning Department which will review it and submit it to the Board for signature. The applicant shall submit the following to the Planning and Zoning Administrator prior to recordation in accordance with Idaho Code Section 50-1304:
  - a. One (1) Mylar.
  - b. Two (2) full size paper copies.



- c. One (1) Plat Map in digital format on disk for inclusion in the County GIS system.
- 6. After all signatures have been acquired, the applicant shall submit the mylar to the County Recorder for recordation.
- 7. Upon recordation of the final plat the applicant shall provide the following to the Planning and Zoning Department:
  - a. One (1) full size paper copy.
  - b. One 8 ½ x 11 paper copy.
  - c. One (1) copy of the recorded CC&Rs.

#### **6-8-2 Full and Large Scale Subdivision Plats**

##### **A. General:**

The full subdivision procedure applies to parcels or existing platted lots which will be divided into more than four (4) lots, parcels or tracts. Public road rights of way shall not be tabulated in the lot count. Every person proposing a subdivision shall cause the same, and each lot or tract contained therein to be surveyed and a preliminary and final plat made thereof. The plat shall meet all requirements of this Ordinance, of Title 50, Chapter 13, Idaho Code, and shall describe and set forth all of the streets, easements, utilities, restrictions, block and lot (including the acreage and dimension of each lot contained therein) and shall be duly subscribed by a surveyor licensed by the State of Idaho. The plat shall also include adequate provisions for the access of utility lines either by easement across the individual lots or in street rights-of-way, or a combination of both.

##### **B. Subdivision Review Required:**

Any person desiring to create a subdivision as herein defined shall submit all necessary applications to the Planning and Zoning Administrator. No final plat shall be filed with the County Recorder until the plat has been acted upon and approved by the Board. No lots shall be offered for sale until the final plat has been recorded in the office of the County Recorder.

#### **6-8-2-1 Preliminary Plat Review Procedure:**

##### **A. Application:**

The applicant shall file with the Planning and Zoning Administrator an application for review of a preliminary subdivision plat and cause to be prepared a preliminary plat as set forth in this Ordinance. The application shall not be deemed accepted for filing nor shall the time limits hereinafter set forth for action commence to run, until the preliminary plat, including all supplementary material required and application fee have been received by the Planning and Zoning Administrator. When all required material in acceptable form has been received, the Planning and Zoning Administrator shall sign and date the application.

1. The application for a preliminary plat or subdivision shall contain the following information:
  - a. The name of the proposed subdivision;
  - b. The name, address and telephone numbers of the subdivider or subdividers and the engineer or surveyor who prepared the plat;
  - c. The name and address of all property owners and purchasers of record (as shown on record in the county assessor's office) owning property within the described radius requirements (identified in Chapter 7, Article A-5) of the exterior boundary of the application property, to contiguous homeowners' associations, and any additional area that may be impacted by

the proposed change including any neighborhood associations as determined by the zoning administrator.

- d. The legal description of the subdivision;
- e. The statement of the intended use of the proposed subdivision, such as residential, commercial, office, recreational, industrial, or agricultural, and a designation of any sites proposed for parks, playgrounds, schools, churches, or other public uses;
- f. A map of the entire area scheduled for development if the proposed subdivision is a portion of a larger holding intended for subsequent development. A map shall be submitted showing the location of existing buildings, water bodies or courses and the location of currently dedicated streets at the point where they adjoin and/or are immediately adjacent; provided, that actual measured distances shall not be required;
- g. A vicinity map showing the relationship of the proposed plat to the surrounding area (1/2-mile radius, scale option);
- h. The land use and existing zoning of the proposed subdivision and the adjacent land;
- i. The proposed street names together with the layout of the proposed street right-of-way lines, lot lines, alley and easement lines, and building setback lines, including all approximate dimensions and any and all proposed extensions, and other important features, such as the general outline of the following: existing buildings, water courses, power lines, telephone lines, railroad lines, and existing easements, municipal boundaries and Section lines;
- Typical cross Section and profiles of streets and/or drainage easements showing grades approved by the County Engineer. The profiles shall be drawn to county standard scales and elevations and shall be based on a datum plane approved by the County Engineer;
- j. Lot lines and blocks showing the dimensions and numbers of each;
- k. Contour lines, shown at five-foot (5') intervals where land slope is greater than ten percent (10%) and at two-foot (2') intervals where land slope is ten percent (10%) or less, referenced to an established bench mark, including location and elevation;
- l. A site report as required by the appropriate health district where individual wells or septic tanks are proposed;
- m. Any proposed or existing utilities, including, but not limited to, storm and sanitary sewers, irrigation laterals, ditches, drainages, bridges, culverts, water mains, fire hydrants and their respective profiles;
- n. Any dedications to the public and/or easements, together with a statement of location, dimensions and purpose of such; and
- o. Any additional required information for special developments as specified in Section 10 of this chapter.
- p. Latitude and longitude (GPS data or Oneida County GIS data) for the primary subdivision access and for all constructed driveway locations; the center point shall be identified;
- q. The date the original preliminary plat was drawn and the revision number at that date as applicable.
2. All applicable reports and plans as required and described in Chapter 3, Section 3. of this Ordinance shall be included with the application.
3. In those areas of Oneida County where approved central sewer and central domestic water facilities acceptable under the standards of this Ordinance are not available, where individual



wells and/or individual onsite sewage disposal facilities on each lot would be necessary, the minimum lot size shall be in accordance with the following, which may be subject to upward or downward adjustment upon a determination by other reviewing agencies, that such adjustment either will or will not affect the public health, safety and welfare:

- 5           a. Individual water and individual sewage disposal: One (1) acres or larger;
- b. Central water and central sewage disposal: Less than one (1) acre;
4. Fees:
- At the time of application all fees shall be paid pursuant to Chapter 7, Article A, Section 2. The Board may assess any additional fees that are necessitated by additional services required of the County Surveyor, Engineer, and/or attorney as the circumstances warrant.
- 10          5. A layout showing the location, length, and grades of sewer lines, catch basins, pumps and other drainage and sewage structures, type and sizes of services, treatment and disposal facilities and so on shall be included with the application.
- 15          6. A layout showing the location of potable water lines, wells, fire hydrants, valves and service lines; and the materials of construction and the dimensions of all water system components shall be included with the application.
7. An outline of any relevant provisions which might be contained within any protective covenants to be recorded with the plat shall be included with the application.
- 20          8. A groundwater study/investigation by a hydro-geologist or a professional engineer licensed in the State of Idaho, with appropriate experience with groundwater studies and evaluations, is required for:
  - 25           a. Subdivisions that consist of ten (10) or more lots. The investigation shall demonstrate water availability in terms of quality and quantity for the proposed subdivision. The investigation shall demonstrate, based on protracted pumping test from a minimum of one (1) well-constructed on the property, that there is sustainable and potable water available at the rate to meet or exceed the appropriate requirements set by the Idaho Department of Environmental Quality and/or IDWR, as applicable. The investigation shall demonstrate that the available water meets the drinking water quality standards for a public drinking water system established by the State of Idaho, Idaho Department of Health and Welfare, Department of Environmental Quality, and the United States of America Environmental Protection Agency. The hydro-geologic investigation shall be based on a minimum of one (1) test well located in an appropriate geographic distribution for every ten (10) lots. The investigation shall also address the issue of the potential impact the development may have on surrounding property owners regarding water availability. The hydro-geologic investigation shall not be considered a guarantee of the availability or quality of water for development but only as a reasonable indication of the availability and quality of water based on available information.
  - 30           b. For subdivisions with less than 10 lots, rezone applications or existing parcels that require a conditional use permit, evidence may be required that an adequate quantity and quality of water is available for the proposed development. The required evidence shall be identified in a groundwater study/investigation prepared by a geologist or professional engineer with appropriate experience with groundwater studies and analysis. It shall be based on documented experience with existing wells at geologically similar conditions in reasonable proximity to the site, neighboring sites, or records of on-site well tests.
  - 35           c. Prior to initiation of the groundwater study/investigation, the developer shall meet with the Planning and Zoning Administrator and the County Engineer to establish the study
  - 40
  - 45

parameters and the requirements of the study. The purpose of the meeting will be to identify and approve the following:

- Scope of study
- Methodology and assumptions
- Study area limits
- Other agencies involved in the review process
- Review and response time limits
- Cumulative considerations and existing demand on the aquifer
- Deliverables
- Other items
- Report content

9. A Transportation Impact Study shall be submitted in conformance with the provisions of the "Highway Standards and Roadway Development Procedures for Oneida County" (as adopted by Resolution.

10. Fire Plan for meeting the requirements of the Wildland Urban Interface Overlay District (WUI), Chapter 3, Article A, and the Public and Private Roads, Chapter 4, Article D, and signed by the applicable fire district or agency responsible for the fire protection in the area of the application. As a minimum, the Fire Plan shall address the following:

- a. Access, regarding both roadways and driveway standards; and
- b. Water Supply Sources as required pursuant to Chapter 3, Article A;
- c. Building construction standards as set forth in the Chapter 3, Article A;
- d. Defensible space;
- e. Fuel types, vegetation on site;
- f. Fire evacuation plan;
- g. Identify fire protection agency source and funding of same.

11. A Storm water management plan including preliminary drainage grades and hydrologic analysis shall be prepared and submitted with the application. The hydrologic analysis shall include drainage basin determination, soil classification, and peak surface water discharge and maximum velocity calculations. Analysis method shall be according to applicable provisions of the HSRDP section 3070. If deemed necessary by the County Engineer, a storm water management plan shall be prepared and certified by a professional engineer licensed in the State of Idaho or a professional geologist licensed in the State of Idaho. The plan shall demonstrate that adequate drainage, storm water management, and soil conservation measures are implemented to prevent the transportation of pollutants and the increase of post-development discharge rates. The Storm Water Management Plan shall include the following, as a minimum:

- a. A complete description of drainage system; and
- b. Calculation of peak flow rates and runoff volumes. The peak rate of discharge for areas up to one hundred (100) acres shall be calculated using the rational method or approved derivatives. For areas greater than one hundred (100) acres the SCSTR55 Method for peak discharge shall be used; and
- c. Calculation of pre-development and post-development flow; and



- d. Design of primary storm water conveyance for runoff from a 50-year frequency storm on sites with less than 15% slopes or a 100-year frequency storm on sites with greater than 15% slope. Design secondary conveyance for runoff for all flows up to the 100-year frequency storm, within defined rights-of-way or drainage easements; and
  - e. Design of drainage ways to convey 110% of the maximum flow volume. Drainage ways shall convey the calculated maximum runoff volumes without erosion as determined by the permissible velocities of water transporting colloidal silts listed in Table 9.1 of the "Design and Construction of Urban Stormwater Management Systems" prepared by the Urban Water Resources Research Council of the American Society of Civil Engineers and Water Environment Federation; and
  - f. Calculations for sizing of all erosion control measures, sediment containment structures, piping, culverts, and any other storm water facilities; and
  - g. Location, grades, and design elevations of all erosion control measures, sediment containment structures, piping, culverts, and any other storm water facilities.
12. A Sediment/Erosion Control Plan shall be prepared and certified by an individual qualified and licensed in the State of Idaho to prepare those plans and be prepared to U.S. Environmental Protection Agency requirements. The plan shall demonstrate the prevention of any transport of construction generated or post-development sediment from the original property, into storm water discharge, into water bodies, or into natural or constructed drainages and due at the Final Plat Application process. The Sediment/Erosion Control Plan shall include the following, as a minimum:
- a. The strategy of the proposed erosion and sediment control plan; and
  - b. Location and details of Best Management Practices (BMPs) to be used; and
  - c. Classifications using the Unified Soil Classification System (USCS) of erodible or disturbed soils; and
  - d. Locations of disturbed soils; and
  - e. Final vegetation and permanent stabilization measures; and
  - f. Pre-construction erosion and sedimentation control measures must be installed or otherwise in effect prior to any site disturbance. If these are not to be installed as part of platting and subdivision, proposed easements and other essential provision as required by the Board shall be submitted; and
  - g. A Sediment Erosion Control Plan is a construction drawing, which must be developed based upon the final (90% to 100%) construction plans. The Sediment Erosion Control Plan supports the Storm Water Pollution Prevention Plan (SWPPP), which must be developed at least seven (7) days prior to beginning construction. The Storm Water Pollution Prevention Plan must be completed prior to filing a U.S. Environmental Protection Agency Notice of Intent (NOI), which grants the developer license to disturb soil under the Environmental Protection Agency Construction General Permit.

#### **B. Affected Property Owners Notification:**

Within ninety (90) days of receipt of the completed applications and filing fee, the Planning and Zoning Administrator shall notify all property owners affected. Affected property owners are herein defined as owners of property lying within 600 feet of the boundaries of the parcel and owners of property that includes any access easement to the proposed subdivision. The Planning and Zoning Administrator shall notify all property owners affected by the land division by first class mail,

utilizing the last known address disclosed by the current tax rolls. Any affected property owner may file objections with the County to the proposed lot, parcel or tract changes within fifteen (15) days of the postmark associated with the above notice.

**C. Agency Notification:**

The Planning and Zoning Administrator shall refer a copy of all relevant materials to the various agencies that have or may have an interest in the proposal for review and recommendation. If no written recommendations are received from any department or agency to which an application is referred, within thirty (30) days from the date said application and preliminary drawings are referred to such agency, it may be assumed for the purposes of County review that such department or agency has no objections to the application. The Planning and Zoning Administrator shall refer copies to:

1. The County Surveyor; and
2. The appropriate health authority; and
3. Any city, village, or town when the proposed subdivision is located within the designated area of impact, or geographic area, if the proposed subdivision lies within such areas; and
4. Superintendent of the School District in which the plat lies; and
5. Any appropriate wetlands agency; and
6. Any other State, Federal and Local agencies deemed appropriate by the Planning and Zoning Administrator or Board; and
7. All Taxing Districts affected.

**D. Preliminary Plat Review by the Commission:**

The Planning and Zoning Administrator shall notify the applicant when all requirements have been met. The Planning and Zoning Administrator shall schedule the matter for public hearing by the Commission at the earliest possible meeting the Commission's schedule can accommodate. If the applicant and the Administrator disagree as to whether all requirements have been met, the applicant on his own volition can request a public hearing before the Commission at the next available meeting that the Commission's schedule can accommodate.

**E. Public Notice of Hearing:**

All public notice shall be in conformance with Chapter 7, Article A, Section 5, "Notice to Public."

**F. Processing:**

Following the Commission's public hearing, the Commission shall provide the Board with a written recommendation for approval, conditional approval, denial, or return of the subdivision preliminary plat to the applicant for modification. The recommendation to the Board shall also contain the reasons for approval, conditional approval, denial or referral for modification in accordance with the requirements of Idaho law, including Findings, Conclusions, and appropriate conditions, if applicable. If the Commission has not provided the Board with a written recommendation within sixty (60) days of the conclusion of their review, the Board can serve notice to the Commission to render a recommendation within thirty (30) days. If a recommendation is not therefore rendered, the Board assumes primary jurisdiction without a recommendation but with consideration of all of the records of the Commission.

**G. Preliminary Plat Review by the Board:**

Upon receipt of the Commission's recommendations, the Board, unless it opts to hold a public hearing on the matter shall deliberate the matter and approve, conditionally approve, or disapprove



the subdivision preliminary plat, or refer it back to the Commission for reevaluation or to the applicant for modification before reconsideration. All Board decisions shall be by majority vote and shall state the reasons for its determination to approve, conditionally approve, or disapprove of the subdivision preliminary plat, or refer it for reevaluation or modification, in accordance with requirements of Idaho law, inclusive of Findings, Conclusions, and appropriate conditions, when applicable. Copies of the Board's determination shall be promptly furnished to the applicant and to the project surveyor or engineer of record.

1. Approval of a preliminary plat shall not constitute approval of the final plat, which may require completion of additional conditions. Rather, it shall be deemed conditional expression of approval. Approval of the Preliminary Plat by the Board shall require compliance with all the requirements of all applicable ordinances with special emphasis on the conditions identified. Development of the proposed subdivision site may commence at the applicant's risk; after approval of the preliminary plat by the Board.
2. For purposes of judicial review, the Board's decision for the preliminary plat shall be considered a final decision and may be appealed to District Court pursuant to the Local Land Use Planning Act and the Idaho Administrative Procedures Act. The appeal process is set forth in Chapter 7, Section 7 of this ordinance and Idaho Code Section 67-6521(d).

#### **H. Preliminary Plat Expiration:**

Preliminary plat approval shall be valid for a period of one (1) year from the date of the Board approval. The Board may grant, upon written request to the Planning and Zoning Department prior to expiration, an extension for an additional one (1) year upon showing good cause.

The approval of a preliminary plat shall become null and void, if an application for review of the final plat is not submitted and accepted for filing within one (1) year of such approval, unless an extension of time is applied for and granted by the Board. However, development can be made in successive contiguous segments if submitted in successive intervals not to exceed one (1) year, without resubmission for conditional approval of preliminary plat. The original decision and written conditions of approval were based only upon all of the standards set forth in the subdivision ordinance at the time. Any changes to the ordinance during an extension period shall apply to the application at the end of the extension period or when it is heard again by the Board. The final plat or plats shall conform substantially and materially to the preliminary plat as approved, and if desired by the applicant, it may constitute the entire preliminary plat or any portion thereof; provided, however, that such portion conforms to all requirements of this Ordinance.

#### **6-8-2-2 Final Plat Review Procedure:**

##### **A. Application:**

Application for review of the final plat shall be submitted in writing to the Planning and Zoning Administrator within one (1) year after the approval of the preliminary plat by the Board. The Planning and Zoning Administrator shall forward the final application to the County Engineer. Upon review of the final plat application by the County Engineer, the County Engineer will determine by a "recommendation to proceed" to the Planning and Zoning Administrator; who will then issue a "Notice to Proceed" to the applicant. The application shall not be deemed accepted for filing nor shall the time hereinafter set out for action commence to run, until the proposed final plat, the final Hydro-Geologic Investigation Report (see Sec 6-8-2-1[B][8]), the final Sediment/Erosion Control Plan (see Sec 6-8-2-1[B][11]), and all supplementary material required and application fee has been received by the Planning and Zoning Administrator.

**B. Fee:**

The application fee as set forth by Chapter 7, Section 11, shall be paid by the applicant to the Planning and Zoning Administrator or other designated county official appointed by the Board. The Board has the power to assess any additional fees that are necessitated by additional services required of the County surveyor and/or Engineer as the circumstances warrant.

**C. Agency Notification:**

The Planning and Zoning Administrator shall require from the applicant as many copies of the final plat and accompanying documentation, deemed necessary to ensure compliance with the preliminary approval and/or conditions of preliminary approval.

Upon receipt of the required copies of the application, drawings and other supplemental material from the applicant, the Planning and Zoning Administrator shall, within ten (10) days, refer a copy of all relevant materials to the following:

1. The County Surveyor/Engineer;
2. The appropriate health authority;
3. All agencies whose signatures are required; and
4. Any other State, Federal and Local agencies deemed appropriate by the Planning and Zoning Administrator.

Such agency review shall also include the construction standards of improvements, compliance with health standards, the cost estimate for all improvements.

**D. Final Plat Review:****1. Review By Administrator:**

- a. Acceptance: Upon receipt of the final plat, and compliance with all other requirements as provided for herein, the administrator shall certify the application as complete and shall affix the date of acceptance thereon.

- b. Resubmission Of Final Plat: The administrator shall review the final plat for compliance with the approved or conditionally approved preliminary plat. If the administrator determines that there is substantial difference in the final plat than that which was approved as a preliminary plat or conditions which have not been met, the administrator may require that the final plat be submitted to the Commission and Board in the same manner as required in the preliminary plat process.

- c. Submission To The Board: Upon the determination that the final plat is in compliance with the preliminary plat and all conditional requirements have been met, the administrator shall place the final plat on the Board agenda within forty five (45) days from the date that an acceptable final plat application was received and acknowledged by the administrator.

2. Agency Review: The administrator may transmit one copy of the final plat, or other documents submitted, for review and recommendation to the departments and agencies as he deems necessary to ensure compliance with the preliminary approval and/or conditions of preliminary approval. Such agency review shall also include the construction standards of improvements, compliance with health standards, the cost estimate for all improvements.

**E. Board of County Commissioner's Review:**

The Board, at its next meeting following receipt of the Administrator's report, shall consider comments from the County Engineer and agencies to arrive at a decision on the final plat. The Board shall approve, approve conditionally, disapprove or table the final plat for additional



information within thirty (30) days of the date of the first regular meeting at which the plat is considered. A copy of the approved plat shall be filed with the Administrator. Upon granting or denying the final plat, the Board shall specify:

- a. The ordinance and standards used in evaluating the application;
- b. The reasons for approval or denial; and
- c. The actions, if any, that the applicant could take to obtain a permit.

**F. Conditional Approval of Final Plat:**

With respect to financial assurance to be provided to the County, the approval of all final subdivision plats shall be conditioned on the accomplishment of one of the following:

1. The construction of improvements as required shall have been completed by the subdivider and accepted by the Board; or
2. Financial assurance acceptable to the Board shall have been filed in the form of a cash deposit, certified check, or irrevocable bank letter of credit.

Copies of the Board's determination shall be promptly furnished to the applicant and to the project surveyor or engineer of record.

**6-8-2-3 Final Plat**

**A. Requirements:**

All provisions required of a final plat as set forth in Title 50, Chapter 13, Idaho Code and Oneida County Development Code Chapter 6, Section 8-2-2 shall be met.

**B. Notes To the Plat:**

Face notes will be specified in the final decision of the Board.

**C. Endorsements:**

The final plat shall be signed by the County Surveyor, County Assessor, County Treasurer and by such other persons as are required by Idaho law including the Chairman of the Board of County Commissioners as required by Title 50, Section 50-1308, Idaho Code.

**D. Streets:**

1. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
2. Prior to any dedication to the public, all streets must comply with all of the standards contained in the Oneida County Highway Standards and Road Development Procedures, in effect on the date of approval of the final plat by the Board.
3. The arrangement of streets in a subdivision shall:
  - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas or
  - b. Conform to a plat for the neighborhood approved or adopted by the Board to meet a particular situation where topographic or other conditions make continuance or conformance to existing streets impracticable.
4. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Board may require a street, or other appropriate buffer, approximately parallel

to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land.

5. Reserve strips controlling access to streets shall be prohibited except where their control is placed in the county under conditions approved by the Board.
6. Street layout shall provide for the following:
  - a. Streets to provide adequate access to adjoining lands.
  - b. Half streets, those centered on a property line, shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other instance where a half street is adjacent to an undeveloped tract, the other half of the street shall be platted within such tract.
  - c. No street names shall be used which will duplicate or be confused with the names of the existing streets in any city, town or in the County area. Street names shall be presented to the Planning and Zoning Department for approval.

#### **E. Easements:**

1. There shall be provided easements for the utilities, upon and across lots, or centered on the side lines, a minimum width of ten (10) feet (except for service entrances).
2. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

#### **F. Streets and Utility Improvements:**

1. Street and off-site improvements shall be installed in each new subdivision at the applicant's expense with bonding posted to the county, or proper provision shall be made, for their later installation at applicant's expense, or at the expense of the party agreeing to so install the same, in accordance with the minimum standards set forth by county ordinance prior to the acceptance of any final plat for recording containing streets or other improvements dedicated to public use. The off-site improvements must be reasonably related to the impacts of the proposed development, as determined by the Board. Provided, however, if neither of the foregoing two provisions have been met, the Board, after finding that strict enforcement of the provisions of this Section would result in unnecessary hardship may approve a variance and a final plat may be accepted for recording. Streets dedicated to the public shall not be maintained by the county unless such maintenance is specifically undertaken by resolution.

#### **G. Contents of Final Plat:**

The final plat shall conform to Idaho Code Section 50-1301 et seq. It shall be drawn on one sheet or sheets of stable base drafting film (minimum base thickness of 0.003 inches) as per Idaho Code Section 50-1304, and also provided to the county, at recordation, in a digital format compatible with the county's system. The final plat shall also contain the following:

1. A title which shall include the name of the subdivision, county and state, and the location and description of the subdivision referenced to township, range, and section.
2. Scale, north arrow, and date.
3. Point of beginning of subdivision description tied to at least two (2) government survey corners or to monuments recognized by the county engineer.
4. Location and description of monuments.



5. Tract boundary lines, property lines, lot lines, lot sizes in acres, street right-of-way and center lines, other rights-of-way, and easements; all with accurate dimensions in feet and decimals, bearing in degrees, minutes and seconds, radii, arcs, central angles, tangents and chord lengths of all curves to the above accuracy.
6. Name and right-of-way width of each street or other right-of-way.
7. Name and locations of adjoining subdivisions.
8. The location, dimension, and purpose of all easements.
9. The floodplain shall be clearly identified on the plat as depicted on the most recently adopted Federal Insurance Rate Map (FIRM).
10. Building envelopes, if required for hillside lots exceeding allowable slope and any floodway or floodplain lines as depicted on the most recently adopted Flood Insurance Rate Map (FIRM).
11. The blocks numbered consecutively throughout the entire subdivision and the lots numbered consecutively throughout each block with areas to be excluded from platting marked clearly with the reason for exclusion.
12. The outline of any property, other than a street or alley, which is offered for dedication to public use, fully dimensioned by lengths and bearings, with the area marked "Public" and showing the proposed use.
13. Location, width and names of all existing or dedicated streets or other public ways within or adjacent to the proposed subdivision.
14. A signed certificate of ownership, with notarization, including dedication of those street rights-of-way and sites held for public use, statements of no dedication for public use and responsibility for maintenance and service to such private streets, grants of any existing or proposed easements and a provision in this certificate referencing the County Recorder's fee number where the protective covenants governing the subdivision are recorded.
15. Certification by registered surveyor preparing the plat certifying to accuracy of survey and plat.
16. Certification and signature of County Engineer (Surveyor) verifying that the accuracy of the survey complies with the requirements of the Idaho Code.
17. Certification and signature of city engineer and County Clerk, if required, verifying that the subdivision meets the County requirements and has been approved by the Board.
18. Certification by the proper health authority that sanitary restrictions have been lifted, or proper notice acceptable to the health authority that sanitary restrictions remain in effect.
19. Any additional restrictions imposed by the Board to provide for the public health, safety and welfare.
20. Certification and signature of the Chairperson of the Board verifying that the subdivision has been approved by the Board.
21. Certification and signature of the County Treasurer verifying that all taxes have been paid.

#### **H. Monuments and Markings:**

The requirements of Title 50, Chapter 13, Idaho Code, with reference to platting, shall be met before the final plat is accepted for filing. Any work required to be performed on the property to meet such requirements shall be verified by the County Surveyor and a certificate of the completion of such work given. The provisions of such applicable Section of the Idaho Code as to monuments, stakes and other markings together with the requirements set forth herein shall be considered minimum requirements as per Idaho Code Section 50-1302.

**I. Certification:**

A certificate by the County Engineer certifying that the applicant has complied with one of the following alternatives:

1. All improvements have been installed in accordance with the requirements of this Ordinance and with the actions of the Board giving such completion of all required improvements.
2. An acceptable financial guarantee of performance has been posted which is available to the County, and in sufficient amount to assure such completion of all required improvements.

The Board may require such other certificates, affidavits, endorsements, or dedications necessary for the enforcement of these regulations.

**J. Protective Covenants:**

Protective covenants are required for all subdivisions that contain private roads, shared utilities (i.e., water and/or sewer systems, pressurized irrigation), or amenities that are shared by the residents of the subdivision. The protective covenants shall be in a form for recording with a copy of the surety arrangement. Covenants shall contain an operation and maintenance manual for the aforementioned items and may address other factors at the discretion of the applicant(s)/owner(s).

1. Acceptance of a plat and/or a listing of protective covenants for recording shall not be construed as approval or endorsement of any protective covenants by Oneida County.
2. No covenant shall preempt any provisions of state statutes, this ordinance, or any ordinance adopted by Oneida County nor or in the future.
3. The approved fire plan and fire evacuation plan shall be included in the protective covenants.
4. The instrument number of the recorded protective covenants shall be noted as a face note on the final plat.
5. A copy of the recorded protective covenants shall be provided to the Oneida County Planning and Zoning Office.

**K. Lot Corner Pins:**

Lot corner pins must be physically in place prior to recording the final plat or there must otherwise be compliance with Idaho Code Sections 50-1331 and 50-1332.

**6-8-2-4 Specific Provisions Required Prior To Recording of Final Plat****A. Deposit For Completion of Improvement Requirements:**

1. An applicant or other interested person, in lieu of the actual completion of all the required minimum street and other off-site or on-site improvements required hereunder, shall provide a certified check, a cashier's check drawn on a bank qualified to do business in the State of Idaho, cash deposit, or irrevocable letter of credit qualified to do business in the State of Idaho identifying Oneida County as the beneficiary.
2. The acceptance of any such financial guarantee of performance shall be conditioned on the receipt by the guarantor of a copy of the surety agreement. A copy of the financial guarantee of performance is not only received by the Planning and Zoning Administrator, but also reviewed and approved by the Planning and Zoning Administrator (with approval not to be unreasonably withheld if the purposes and protection of the County are served).
3. The amount of such financial guarantee shall be in an amount equal to, but not less than, 150% of the cost of the required improvements according to the estimate made by the owner's engineer or an independent contractor bid subject to review by the County Engineer and/or Zoning Administrator, and in all cases, such financial guarantee shall be drawn in favor of, and



payable to the order of Oneida County, State of Idaho, in accordance with the provisions requiring the applicant to construct all off-site and on-site improvements in accordance with Oneida County standards and specifications, subject to inspection and approval by the County Engineer and subject to completion within one (1) year from date of recording of said final plat or such longer period that has been expressly granted by the Board.

**B. Road Designation:**

Road width and driving surface shall be as outlined in Chapter 4, Article D, Public and Private Roads. The applicant shall make full disclosure to all buyers of subdivision property containing private streets of the ownership of the streets within the subdivision and the unavailability of county services. Said disclosure shall be executed in writing on the final plat as a face note.

**6-8-2-5 Recording of Final Plat**

**A. Recordation:**

Applicant has one (1) year after final approval, unless an extension of time is applied for and granted by the Board, to present the plat for recordation to the Planning and Zoning Department which will review it and submit it to the Board for signature. Final plats shall be recorded in accordance with Title 50, Chapter 13, Idaho Code.

1. At the time a final plat is submitted for recording, the applicant shall submit to the Planning and Zoning Administrator the following:
  - a. One (1) silver image cronoflex transparency or Mylar
  - b. Two (2) full size paper copies.
  - c. One (1) Plat Map in digital format on disk for inclusion in the County GIS System digital format shall be required for all subdivisions with formatting and files as specified by the County Assessor's Office.
2. Any tax parcel which is subsequently subdivided shall have any and all taxes due on that parcel paid in full prior to the County Treasurer placing his/her signature on the subdivision plat.
3. Final Plat shall be recorded within thirty (30) days after all conditions are met as approved by the Board and all signatures have been secured on the signature page.
4. After signatures have been acquired, the applicant shall provide the signed cronoflex transparency to the County Recorder for recordation.
5. The Final Plat recording and copy fees shall be paid by the applicant to the County Clerk at the time of presentation for recording.

**6-9 Vacation of Subdivision Plat or any Part Thereof:**

**6-9-1 General**

- A. An applicant or owner may petition the Board for a total or partial vacation of a recorded subdivision plat, including easements. Vacation shall be processed in accord with the regulations set forth in Idaho Code Section 50-1306A and recorded in accord with the regulations set forth in Idaho Code Section 50-1324.
- B. Said person shall be the owner of record of the parcels proposed for vacation or be authorized by the owner(s) of record to petition the Board. Said petition must state the following:
  1. The circumstances surrounding the issue of why the plat should be vacated.
  2. Contain a legal description of the platted area or property to be vacated.
  3. Contain the names of all persons affected by the vacation of the plat.

4. Said petition is to be filed with the Administrator.
- C. The Administrator shall contact the County Clerk on said petition to schedule a public hearing. Notice for said hearing shall be in the following manner:
  1. Notice shall be sent notification by certified mail to all known property owners, within 600 feet of the boundaries of the area described in the petition at least thirty (30) days prior to the date of the public hearing;
  2. Notice of the public hearing must also be published once a week for two (2) successive weeks in the official of the county. The last notice must not be published less than seven (7) days prior to the hearing date.
  3. All publication costs shall be at the expense of the petitioner.
  4. All final approval of vacations shall be conditional upon certification by the County Surveyor that all corner pins or markings in the affected area have been removed. All costs for such removal and certification shall be paid by the applicant.
- D. The Board may deny, or grant said petition with such restrictions as they deem necessary in the public interest.

#### **6-9-2 Lot Line Vacations**

A Lot Line Vacation is the removal of a lot line between two (2) parcels that combines the two (2), or more parcels into one (1) lot, which does not reduce the area, frontage, width, depth, or building set back lines of each building site below the minimum zoning requirements, if any, and does not change the outside boundary of a subdivision. Such a combination of parcels shall not be able to be rescinded (or un-combined) without first going through the property division of land procedures as outlined in the Ordinance.

- A. A letter from the homeowner's association approving the parcel/lot line vacation/combination, if applicable.
- B. Necessary documents from the lending institute, if necessary, acknowledging the parcel/lot line vacation/combination.
- C. If buildings are to be constructed over vacated lot lines, then any easements platted therein shall also be vacated per Idaho Code and this Section.

#### **6-10 Special Development Subdivisions**

##### **6-10-1 Purpose:**

The purpose of this Section is to identify various types of developments that normally pose special concerns to the Commission and the Board when reviewing and acting upon subdivision requests. This Section outlines design standards and other matters that shall be taken into consideration when acting on special developments. The provisions of this Section are in addition to the plan requirements and design standards found elsewhere in this Ordinance.

##### **A. Large Scale Subdivision:**

The standards and requirements of this Ordinance may be modified by the Board in the case of plan and program for a new town, a complete community, or a neighborhood unit, which in the judgment of the Board provides adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provide such covenants or other provisions as will assure conformity to and achievement of the goals and objectives of the Local Land Use Planning Act of 1975, as set forth in Title 67, Chapter 65, Idaho Code.



Due to the impact that a large-scale development would have on public utilities and services, the applicant shall submit the following information in addition to all the requirements of Chapter 6, along with the preliminary plat:

1. Identification of all public services that would be provided to the development including fire protection, law enforcement, central water, central sewer, road/drainage maintenance, solid waste disposal, parks/recreation, schools and others;
2. Estimate of the public service costs to provide adequate services to the development;
3. Estimate of the tax revenue that will be generated by the development including the method used to arrive at the estimate;
4. Suggested means for financing the services for the development if costs for public services would not be offset by tax revenues received from the development.

**B. Hillside Lot or Subdivision:**

In addition to all other applicable provisions of this Ordinance, Hillside Lots or Subdivision shall be subject to the following special requirements and evaluation standards:

**1. Appearance and preservation:**

In order to preserve, enhance and promote a rural and open appearance and the natural topographic features and qualities of hillside areas, special consideration topographic features and qualities of hillside areas, special consideration will be given to the following: existing trees, shrubs, rock outcroppings, stream beds, draws, ridge lines, wetlands and natural drainage swales. Consideration will also be given to the view from and of the area.

**2. Evaluations:**

- A. Development proposals shall take into account and shall be judged by the way in which land use, soil mechanics, engineering geology, hydrology, environmental, architectural and landscape design are applied in hillside areas. Evaluations shall include but are not limited to the following factors:
- B. Planning the development to fit the existing topography, soils, geology, hydrology, wooded areas and other conditions;
- C. Orientation of the development on the site in a manner that will minimize grading and other site preparation work;
- D. Shaping of essential grading to lend with natural land contours and features so as to minimize padding and/or terracing of building sites.
- E. Division of tracts into workable units on which construction can be completed within one construction season to avoid areas being left bare and exposed to the winter/spring run-off period;
- F. Completion of paving as rapidly as possible after grading;
- G. Allocation of areas not well suited for development because of soil, geologic or hydrologic limitations for open space and recreation uses;
- H. Minimizing and disruption of existing plant and animal life; and
- I. Consideration of the view from and of the hills.
- J. Areas having soil, geologic or hydrologic hazards shall not be developed unless it is shown that:

1. Their limitations can be overcome;
2. Hazards to life and property will not exist;
3. The safety, use and stability of the public way or drainage system is not jeopardized;  
and
4. The natural environment is not subjected to undue impact.

### 3. Reports and Plans:

The applicant shall retain a professional engineer licensed in Idaho to prepare or obtain and submit the following reports unless specifically exempted there from in writing by the County Engineer. The reports shall be submitted with the preliminary plat application. Preliminary reports shall consist of sufficient information to permit a determination by the County Engineer and the Board whether or not the site is adequate for the proposed development. Any preliminary plat approved based on a preliminary report(s) shall be subject to the findings of the final report(s).

- A. Soils Report: This report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, design criteria for corrective measures, and opinions and recommendations covering the adequacy of sites to be developed.
- B. Geology Report: The report shall include an adequate description of the geology of the site, an evaluation of the proposed development in relation to the geology, conclusions and recommendations covering the adequacy of the sites to be developed. The investigation and report shall be completed by a professional geologist or engineer registered in Idaho.
- C. Hydrology Report: This report shall include an adequate description of the hydrology of the site, conclusions on the proposed development and opinions and recommendations covering the adequacy of the sites to be developed. Flood frequency curves shall be provided for the area proposed for development.

### 4. Grading Plans:

- A. Preliminary Grading Plan: A preliminary grading plan shall be submitted with each hillside preliminary plat proposal and shall include the following information:
  1. Approximate limiting dimensions, evaluations, or finish contours to be achieved by the grading, including all cut and fill slopes, proposed drainage channels and related construction;
  2. Preliminary plans and approximate locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
  3. A description of methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site.
  4. A topographic map of the proposed development showing contours of five-foot (5') intervals may be requested for areas considered highly sensitive by the County Engineer.
- B. Final Grading Plan: A final grading plan shall be submitted with each final plat and shall include the following information:



1. Limiting dimensions, evaluations, or finish contours to be achieved by the grading, including all proposed cut and fill slopes and proposed drainage channels and related construction;
2. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed; and
3. A schedule showing when each stage of the project will be completed, including the total area of soil surface which is to be disturbed during each stage together with estimated starting and completion dates. In no event shall the existing natural vegetative ground cover be destroyed, removed, or disturbed more than fifteen (15) days prior to grading. (Grading plans for houses will be submitted at the time of applying for a building permit if required.)
4. No grading, clearing, filling or excavation shall be initiated until the final grading plan has been approved by the County Engineer.

#### 5. Soil Standards:

- A. Fill areas shall be prepared by removing organic and other materials which are detrimental to proper compaction and stability. No rock or similar material greater than eight inches (8") shall be used as fill material that is intended to provide structural strength.
- B. Fills shall be compacted to at least ninety five percent (95%) of maximum density as determined by AASHTO T99 or ASTM D698, or greater as recommended by the soils engineering report. The frequency of compaction testing shall be as recommended by the soils engineer, who prepared the soils engineering report, and approved by the County Engineer.
- C. Cut slopes shall be no steeper than two (2) horizontal to one (1) vertical unless it can be shown by the Project Engineer that steeper slopes are feasible, taking into account safety, stability, erosion control, and re-vegetation; subsurface drainage shall be provided as necessary for stability.
- D. Fill slopes shall be no steeper than two (2) horizontal to one (1) vertical and shall not be located on natural slopes two to one (2:1) or steeper, or where fill slopes toe out within twelve feet (12') horizontally of the top of an existing or planned cut slope.
- E. Tops and toes of cut and fill slopes shall be set back from property boundaries a distance of three feet (3') plus one-fifth (1/5) of the height of the cut or fill but need not exceed a horizontal distance of ten feet (10'). Top and toes of cut and fill slopes shall be set back from structures a distance of six feet (6') plus one-fifth (1/5) the height of the cut or fill but need not exceed ten feet (10').
- F. The maximum horizontal distance of disturbed soil surface for roadways shall not exceed seventy-five-feet (75').
- G. Cuts shall not be permitted solely for the purpose of obtaining fill material.

#### 6. Roadways:

- A. Road alignments should follow natural terrain with no unnecessary cuts or fills to create additional lots or building sites and shall be designed to create the minimum feasible disturbance of the soil.

B. One-way roads/streets are permitted and encouraged where appropriate for the terrain and where public safety will not be jeopardized. Maximum widths shall be seventeen feet (17') between the backs and curbs.

C. The width of the graded section shall extend three feet (3') beyond the curb back or edge of pavement on both the cut and fill sides of the roadway. If sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus one foot (1') beyond the curb back.

D. A pedestrian walkway plan shall be required where appropriate.

#### **7. Driveway/Parking Standards:**

Collective private driveways, cluster parking areas and on-street parallel parking bays shall be used where feasible to minimize soil disturbance and stabilization requirements.

#### **8. Vegetation/Re-vegetation Standards:**

A. The applicant shall submit a slope stabilization and re-vegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and the method of disposal, the vegetation to be planted and slope stabilization measures to be installed. The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality and fish and wildlife.

B. Vegetation sufficient to stabilize the soil shall be established on all disturbed areas as each stage of grading is completed. Areas not contained within lot boundaries shall be protected with perennial vegetation after all construction is completed. Efforts shall be made to plant those species that tend to recover from fire damage and do not contribute to the rapid rate of fire spread.

C. The applicant shall be fully responsible for any destruction of native vegetation proposed for retention. This responsibility shall include activities of his employees and for all subcontractors from the first day of construction until the notice of completion is filed. The applicant shall be responsible for replacing such destroyed vegetation.

#### **9. Maintenance:**

The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved or a building permit granted under the provisions of this ordinance shall continuously maintain and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures and other protective devices, plantings, and ground cover installed or completed.

#### **10. Building Envelopes:**

The County Engineer may require the applicant to define building envelopes identifying areas stable and safe enough for buildings and to provide reasonable assurance that the construction site can be accessed in accordance with Chapter 4, Article D, of this ordinance, and the written fire plans required by the local fire protection agency.

#### **C. Cemeteries:**

The applicant will provide the Board with written documentation that will explain if the proposed cemetery will be used for animal or human remains and functions that will be performed on the property. The applicant shall also submit a written statement that adequately assures the compliance of the proposed cemetery with the procedural platting and management requirements that are outlined in Title 27, Idaho Code.



## 6-11 Mitigation of Effects of Subdivision Development Including School Districts

### 6-11-1 General:

- A. Prior to the granting and/or approval of a permit to subdivide land within Oneida County, the Board shall determine if the proposed subdivision is likely to affect the ability of political subdivisions of the State, as well as School Districts, to deliver services without compromising the quality-of-service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision.
- B. If the Board determines that the proposed subdivision is likely to compromise the quality-of-service delivery to current residents or is likely to impose substantial additional costs upon current residents, the Board, prior to granting the permit, must require the applicant to provide mitigation for such effects as authorized by the provisions of Idaho Code Section 67-6513. The Board shall have the option of exclusively dealing with the issues of bonds, reimbursement fees, road development agreements and/or application fees, in the case of developments, which are deemed by the Board to have a significant effect on Oneida County services and infrastructure. In such case, pursuant to the direction of the Board, the Commission shall defer such matters to the Board.

### 6-12 Required Findings:

#### A. Preliminary Plat:

1. The design conforms to the standards established in Article A of this chapter;
2. The design complies with the required improvements established in Article B of this chapter;
3. If applicable, the proposed subdivision complies with the standards of an applicable overlay district as set forth in Chapter 3 of this ordinance;
4. The design conforms to the topography and natural landscape features and shows consideration for the location and function of land uses and structures to achieve this purpose;
5. The development would not cause undue damage, hazard, or nuisance to persons or property in the vicinity;
6. The internal street system is designed for the efficient and safe flow of vehicles, bicycles, and pedestrians without having a disruptive influence upon the activities and functions contained within the proposed subdivision, nor placing an undue burden upon existing transportation and other public services in the surrounding area;
7. Community facilities such as parks, recreational, and dedicated open space areas are functionally related to all dwelling units and are easily accessible via pedestrian and/or bicycle pathways;
8. The proposal complies with the dimension standards set forth in this ordinance;
9. The overall plan is in conformance with the comprehensive plan, area of city impact ordinances including applicable subdivision regulations, and other pertinent ordinances; and

#### B. Final Plat:

1. The final plat is in substantial conformance with the preliminary plat;
2. All conditions of the approved preliminary plat have been met; and

**6-13 Variances****A. Hardship:**

Where the Board finds that extraordinary hardship will result from strict compliance with this ordinance; it may vary the requirements or standards thereof so that substantial justice may be done, and the public interest secured. Mere cost differential, by itself, is not considered a hardship.

**B. Mortgages and Trust Deeds:**

The standards and requirements of this Ordinance may be modified by the Board whenever any lot or parcel of land is brought within the purview of this Ordinance because of mortgages or deeds of trust being imposed upon said land, upon a satisfactory showing by the owner thereof that said mortgages or deeds of trust do not accomplish or result in the subdivision of land, and that no attempt is made to circumvent the provisions of the Ordinance.

**C. Recorded Plat Amendments:**

The procedure for changing recorded plats is the same as the application procedure as outlined in the initial application for Minor and Full Subdivision.

**D. Conditions:**

In granting variances and modifications, the Board may require such conditions as will, in its judgment, substantially meet the objectives of the standards or requirements of this Ordinance as varied or modified by the Board.



## **Article A: Design Standards:**

### **6A-1: General:**

- A. These standards shall be followed in all subdivisions regulated by this ordinance.
- 5 B. Any proposed subdivision in areas of the county where topographical slopes are greater than fifteen percent (15%) or where adverse conditions associated with slope stability, erosion, or sedimentation are present, as determined by the county engineer, shall conform with the additional hillside regulations set forth in this ordinance.
- 10 C. Adequate means for eliminating unsuitable conditions must be approved by the county engineer in order to develop property that has been designated in the applicable comprehensive plan, in the natural features analysis, or elsewhere, as being unsuitable for development because of flood threat, poorly drained areas, high groundwater, steep slopes, rock formation, buried pipelines, or other similar conditions likely to be encountered.
- D. The limits of the subdivision shall encompass the full extent of the owner's parcel, tract of land, or "contiguous parcels", as herein defined.
- 15 E. The decision-making body may require modifications where, in its opinion, site planning has not sufficiently addressed the existing natural features.

### **6A-2: Blocks:**

- A. The length, widths, and shapes of blocks shall be determined with due regard to:
  - 20 1. Provision of adequate building sites suitable to the special needs of the type of use contemplated including the base district requirements as to property sizes and dimensions.
  - 2. Needs for convenient access, circulation, control, and safety of street traffic. The number of intersecting streets with arterials of all classes shall be held to a minimum.
  - 3. The limitations and opportunities of topography.

### **6A-3: Lots:**

- 25 A. The property size, width, depth, shape, and orientation, and the minimum structure setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. The minimum dimensional standards for all lots shall be in accord with this ordinance.
- 30 C. Through lots shall be avoided except to separate developments from arterial streets or to overcome topographic restrictions. A screening easement or common area lot having a minimum width of ten feet (10') shall be provided along the arterial streets. If unavoidable, one of the frontages shall be restricted from access.

### **6A-4: Access:**

- 35 A. The arrangement, character, extent, and location of all streets shall conform to the comprehensive plan or portions thereof and shall be considered in their relation to existing and planned streets, topographic conditions, and in their appropriate relation to the proposed uses of the property to be served by such streets. All required public street improvements and additional design standards shall conform to the Highway Standards and Road Development Procedures for Oneida County.
- 40 B. Where a subdivision borders a railroad right of way or limited access highway right of way, a street approximately parallel to such right of way, at a distance suitable for appropriate use of the intervening property may be required.
- C. Street layout shall be planned to facilitate future development of abutting areas and the entire neighborhood and shall provide for adequate access to abutting lands.

**6A-5: Easements:**

- A. There shall be easements provided for utilities, drainage, and irrigation abutting to all public street right of way and subdivision boundaries, and were considered necessary, centered on the interior property lines. Said easements shall have a minimum width of ten feet (10').
- 5 B. Where a subdivision is transversed by a watercourse, appropriate easements shall be provided.

**6A-6: Watercourses:**

- A. There shall be a minimum structural setback of thirty feet (30') from the normal high-water line of all watercourses, whether covered or uncovered. For open watercourses, normal high-water line shall be as determined by a licensed surveyor or engineer.
- 10 1. Proposed fences in a designated flood hazard area shall comply with the regulations of Chapter 3, Article B of this ordinance.
- 2. Proposed covers or fences involving an irrigation distribution system shall have the prior approval of the affected irrigation district.

**6A-7: Flood Hazard Overlay District:**

- 15 All proposed subdivisions in a flood hazard overlay district shall comply with the requirements of Chapter 3, Article B of this ordinance.



## **Article B: Required Improvements:**

### **6B-1: Owner's Responsibility:**

The owner is responsible to complete the improvements required by this Article and any additional improvements that may be required as a condition of approval.

### **5 6B-2: Monument Requirements:**

The owner shall comply with the requirements of Idaho Code Sections 50-1302, 50-1303, 54-1227, and 55-1608.

### **6B-3: Streets and Other Improvements:**

Prior to signing of any final plat, the following requirements shall be satisfied as applicable:

- 10 A. Public streets shall be constructed in conformance with Chapter 4, Article D, prior to being accepted by the Oneida County Board of County Commissioners.
- B. Approved private roads shall be completed in accord with requirements of Chapter 4, Article D of this ordinance.
- 15 C. All new developments shall have adequate sewage facilities, or the plat shall have a sanitary restriction as approved by the appropriate health authority.
- D. Stormwater facilities and drainage improvements shall be constructed by the applicant or owner and approved by the county engineer.

### **6B-4: Guarantee of Improvements:**

- 20 In lieu of completion of the improvements listed in Subsections 6B-3A, B, and D of this Article, the Board may permit the subdivider to provide a surety/financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and beyond the requirements of any other agency responsible for the administration, operation and maintenance of the applicable required improvement:

- 25 A. Cash Deposit, Certified Check, Or Irrevocable Bank Letter of Credit: A cash deposit, certified check, or an irrevocable bank letter of credit (issued by a local bank in the Oneida County area), in the amount equal to one hundred fifty percent (150%) of the estimated construction costs of the required improvements shall be provided by the owner/developer and held by the county until said construction is complete. Construction cost estimates shall be reviewed and approved by the Zoning Administrator prior to county acceptance of said surety. The surety initiation and extension fees shall be established by resolution of the Board.
- 30

In the case of cash deposits or certified checks, an agreement between the Board and the subdivider may provide for progressive payment out of the cash deposit or reduction of the certified check, to the extent of the cost of the completed portion of the public improvement, in accordance with a previously entered into agreement.

- 35 B. Completion Time: All required improvements shall be completed within one (1) year from the date of acceptance of the surety/financial guarantee of performance by the county. The Zoning Administrator may authorize a delay in the completion of the required improvements if at a minimum, the surety is extended.

## Chapter 7 Administration

- Section 1 Administrator
- 5 Section 2 Jurisdiction and Authority
- Section 3 Development Ordinance Amendments
- Section 4 Variances
- Section 5 Time Extension of an Approved Development Application
- Section 6 Appeals and Requests for Reconsideration
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- Article A Application Procedures
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- Article C Development Agreements
- Article D Land Use Hearings
- Article E Show Cause Hearing

### 7-1 Administrator:

- 20 The Board shall appoint an Administrator to administer this ordinance. The Administrator may be provided with the assistance of such other persons as the Board may direct.

### 7-2 Jurisdiction and Authority:

For the purpose of this ordinance, the Administrator shall, as appropriate, have the following duties:

- 25 A. Assist applicants in the preparation of required forms and permit procedures; review pre-application materials; and explain proper procedures.
- B. Provide required public notice of the time and place of public hearings.
- C. Prepare the agenda for the meetings of the Commission, in cooperation with Commission members.
- 30 D. Analyze permit requests and prepare reports and summaries of said analysis.
- E. Mail necessary submission to referral agencies and analyze the comments and recommendations.
- F. Receive, file, and transmit to the Commission and/or Board all applications, petitions, transcripts, and other communications on which they must act.
- 35 G. Maintain permanent and current records of applications, variances, and conditional use permits, and of the hearing and actions thereon.
- H. Advise interested citizens of ordinance provisions.
- I. Perform such other duties as may be assigned by the Board of County Commissioners, the Planning and Zoning Commission, and this Ordinance.



### **7-3 Development Ordinance Amendments:**

#### **7-3-1 Purpose:**

Whenever the public necessity, convenience, general welfare or good zoning practices require the Board may, by Ordinance, after receipt of recommendation thereon from the Commission and subject to  
 5 procedures provided by Idaho Code, Section §67-6511, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

#### **7-3-2 Initiation of Zoning Amendments:**

Proposed amendments to this Ordinance may be initiated in one of the following ways:

- A. By adoption of a motion by the Commission;
- 10 B. By adoption of a motion by the Board; and
- C. By the filing of an application by a property owner or a person who has an existing interest in property within the area proposed to be affected by said amendment.

#### **7-3-3 Contents of Application:**

Applications for amendments to this Ordinance shall be filed with the Administrator and contain at least  
 15 the following information:

- A. Name, address, and phone number of the applicant and/or representative;
- B. Proposed amending Ordinance, approved as to form by the Board;
- C. Proposed land use;
- 20 D. A statement of how the amendment relates to the comprehensive plan, availability of public facilities, and compatibility with the surrounding area; and
- E. A fee as established by the Board in accordance with this Ordinance.

#### **7-3-4 Development Ordinance Amendment Procedure:**

- A. Requests for an amendment to the Development Ordinance shall be submitted to the Commission, which shall evaluate the request at a public hearing to determine the extent and nature of the amendment  
 25 requested.
- B. If the request is in accordance with the adopted Comprehensive Plan, the Commission may recommend that the Board adopt or reject the requested amendment under the notice and hearing procedures as herein provided.
- 30 C. If the request is found to not be in accordance with the Comprehensive Plan, the Commission shall recommend that the Board reject the requested amendment.
- D. Requests for an amendment to the Development Ordinance shall then be submitted to the Board, which shall evaluate the request at a public hearing to determine the extent and nature of the amendment requested.
- 35 E. If the request is in accordance with the adopted Comprehensive Plan, the Board may adopt or reject the requested amendment under the notice and hearing procedures as provided by state statute.
- F. If the request is found to not be in accordance with the Comprehensive Plan, the Board shall reject the requested amendment.

#### **7-4 Variances:**

##### **7-4-1 Purpose:**

5 The Commission may authorize in specific cases such variances from the bulk and placement requirements of this Ordinance as will not be contrary to the public interest and when due to natural site characteristics compliance with the bulk and placement requirements of this Ordinance would result in undue hardship. No non-conforming use of neighboring lands, structures or buildings and not allowed or non-conforming use of lands, structures or buildings shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the bulk provisions of this ordinance would result in unnecessary hardship or inequity. Variance shall not be granted to allow a use where such use is prohibited by this Ordinance. Applications for floodplain variance shall comply with the regulations of Chapter 3, Article B, of this Ordinance and are not subject to the regulations of this Section.

##### **7-4-2 Application Procedures:**

15 An application for a variance shall be filed with the Administrator by at least one owner or lessor of the property for which such variance is proposed. At a minimum, the application shall contain the following information:

- A. Name, address, and phone number of the applicant.
- B. Legal description of the property.
- C. Proof of ownership.
- 20 D. Description of existing use.
- E. Description of proposed variance.
- F. A site plan.
- G. An objective narrative stating the reasoning for a variance and justification of the variance.
- H. Additional information (technical reports) if needed at the expense of the applicant.
- 25 I. Application fees.

##### **7-4-3 Standard:**

The variance shall comply with Idaho Code §67-6516.

##### **7-4-4 Required Findings:**

- 30 A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- B. That a literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- C. That special conditions and circumstances do not result from the actions of the applicant; and
- 35 D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same district.

A variance shall not be granted unless the Board makes specific findings of the fact based directly on the particular evidence presented to it which support conclusions that the above-mentioned standard and required findings have been met by the applicant.



## **7-5 Time Extension of an Approved Development Application:**

### **A. Process**

1. An application and fees, as set forth in Article A of this chapter, shall be submitted to the Administrator on forms provided by the Planning and Zoning Department.

a. The application shall include a letter from the applicant or owner describing the reasons for the time extension request. Such reasons may include but are not limited to: 1) current and/or forecasted economic conditions that make it impracticable to finish the development within the time allotted; or 2) delays that are beyond the control of the applicant or owner that make it impracticable to meet the conditions of approval and/or development requirements within the time allotted.

b. The application shall be filed prior to the expiration date of the development approval or previously granted time extension.

c. A development application shall only be eligible to apply for and receive two (2) time extensions (one [1] administratively granted and one [1] granted by the Board). Any development application already subject to an administratively granted time extension that has not yet expired is entitled only to apply for a time extension granted by the Board.

2. The first application for a time extension shall be administrative. An administratively granted time extension shall be valid for one year from the date of the original expiration date of the development application.

3. The second application for a time extension shall require a recommendation by the Planning and Zoning Commission and approval by the Board. The Board may grant a time extension for any period of time up to but not to exceed two (2) years from the date of the expiration of the administratively granted time extension.

4. Appeals of administratively or Board granted time extensions shall toll the time period of the time extension until final resolution of such appeal.

### **B. Findings: In order to grant a time extension, the Administrator or Board shall make the following findings:**

1. The application was submitted in a timely manner; and
2. The applicant has submitted reasons that justify the granting of the time extension.

## **7-6 Appeals:**

### **7-6-1 General Provisions:**

- A. Any decision or action may be appealed as set forth in this chapter. The appellant shall be an affected person as defined in Idaho Code §67-6521(1)(a).

B. All appeals must be written, accompanied by a fee as set forth by resolution of the Board of County Commissioners in the County Clerk's Office, and submitted to the Administrator prior to the deadlines set forth herein. If the deadline falls on a weekend or holiday the appeal period is automatically extended to the next workday. Each appeal must clearly state the name, address and phone number of the person or organization appealing and the specific issues, items or conditions that are being appealed and state the error of procedure or law which forms the basis of the appeal.

- C. After review following a public hearing or not, in the Board's discretion, the Commission or Board may: grant, amend, sustain, or deny a permit; or delay such a decision for up to

one hundred and twenty (120) days, or upon finding that special conditions warrant for up to two hundred and seventy (270) days, for further study or hearing.

#### **7-6-2 Administrative Appeals:**

- 5 A. Any written decisions of the Administrator may be appealed to the Planning and Zoning Commission by any affected person aggrieved by such decision, specifying the grounds upon which the appeal is being taken. The appeal shall be filed with the Administrator before 5:00 p.m. of the twenty (20th) calendar day after the written decision or determination of the Administrator has been made.
- B. The Commission shall hold a public hearing on appeals from decisions of the Administrator following the date the notice of appeal was filed.
- 10 C. The Commission shall follow the notice requirements provided by Article A of this chapter.
- D. The Commission shall, within thirty (30) days following the hearing, issue a written decision affirming, reversing, or modifying the Administrator's decision. The written decision shall contain the reasons for such a decision.
- E. The Commission's decision is final unless appealed to the Board.

#### **7-6-3 Commission Appeals:**

- A. Any decision of the Commission may be appealed to the Board by the applicant, any affected person or the Administrator. The appeal shall be filed with the Administrator before 5:00 p.m. of the twentieth (20th) calendar day after the written decision or determination of the Commission has been made.
- 20 B. The Administrator shall ascertain that the procedural requirements have been met and notify the Board of the appeal.
- C. The Clerk, upon notice of an appeal of a decision by the Commission, shall set the item on the agenda of the Board at the earliest possible regular meeting of the Board. The Board shall provide notice of appeal in the same manner as outlined in Article A of this chapter.
- 25 D. All pertinent information in the planning and zoning file shall be forwarded to the Board for review.
- E. The Board may hold a public hearing to review the Commission's proceedings and decisions and may obtain additional information from the Administrator, the applicant, the appellant, or the public.
- F. The Board may sustain, amend, modify or delay the decision of the Commission for up to one hundred and twenty (120) or upon finding that special conditions warrant for up to two hundred and seventy (270) days for further study or hearing. The decision of the Board is final and need not be referred back to the Commission except the Board may elect to refer the matter to the Commission with specific instructions.
- 30

#### **7-6-4 Request for Reconsideration:**

35 Appeals Of Board Decisions: For any application required or authorized pursuant to the Local Land Use Planning Act, an affected person may seek judicial review of any final decision of the Board.

1. A decision of the Board is not a final decision until it has been rendered in writing.
2. Any affected person seeking judicial review shall first seek reconsideration of the final decision within fourteen (14) calendar days. Such written request shall be provided to the County Clerk along with any such fee as adopted by resolution of the Board and shall identify specific deficiencies in the decision for which reconsideration is sought and the legal basis for relief.
- 40 3. In the event no action is taken by the Board within sixty (60) calendar days of receipt of a request for reconsideration the request is deemed denied. If the Board chooses to reconsider the final decision, the Board shall provide the applicant or affected person a written decision on such action. The Board may



then reopen the matter and have additional public hearing(s) if it believes additional information is necessary. The notice for public hearing shall comply with Chapter 7, Article A-5.

4. Notice To Applicant Or Affected Person: Within ten (10) calendar days after the written decision has been rendered, the Administrator shall provide the applicant or affected person with a written notice of the action on the request.
5. A failure to request reconsideration is a failure of the applicant or affected party to exhaust administrative remedies.

#### **7-7 Compliance by Issuers of Permits:**

All departments, officials, and public employees of the county vested with the duty or authority to issue permits, shall conform to the conditions of this Ordinance, and shall issue no permit, certificate, or license for the use of land, buildings, or purposes, in conflict with the provisions of this Ordinance and such permit, certificate, or license issued in conflict with the provisions of the Ordinance shall be null and void.

#### **7-8 Penalties:**

In addition to any other penalties or means of enforcement provided in this Ordinance, any violation of any provision of this ordinance shall be deemed a misdemeanor as defined by Idaho Code 18-111. A single violation of this ordinance shall be punishable by a fine and/or imprisonment as set by Idaho Code for punishment for misdemeanor offenses per Idaho Code 18-113 and its successors. Each separate instance or day of violation shall constitute a separate offense. Enforcement of the provisions of this ordinance may also be accomplished by undertaking civil action.

#### **7-9 Enforcement Procedures and Penalties:**

- A. General Enforcement: In the event any land or building use, occupancy, or any construction commences in violation of the provisions of this Ordinance, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful use of land or construction to restrain, correct or abate such violation or to prevent any illegal act, conduct, construction, business or use of land in or about such premises.
- B. Complaints of Violation. When a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the causes and basis for the complaint and shall be filed with the Planning & Zoning Administrator. The Planning & Zoning Administrator has the authority to investigate and take actions on the complaint as provided in this Ordinance. The Planning & Zoning Administrator may also dismiss the complaint based upon a finding that there is insufficient evidence that a violation exists. Nothing in this Ordinance shall be construed to require the County or the Planning & Zoning Administrator to pursue enforcement or remedial action.
- C. Enforcement Authority. The Planning & Zoning Administrator, or designee, shall have the authority to enforce this Ordinance. The Planning & Zoning Administrator shall not issue a permit under this Ordinance unless the proposed uses of the buildings and land conform in all respects with the provisions of this Ordinance. Nothing contained in this Ordinance shall limit the Board or other County officials from taking lawful action to restrain or prevent a violation of this Ordinance or of Idaho Code. In addition to court actions, the County may recover reasonable costs incurred in investigating, abating, and prosecuting the violation.
- D. Notice of Violation. Whenever any construction, site work, or use of land fails to comply with this Ordinance, any condition of approval, a conditional use permit, or other applicable laws, ordinances, or requirements, the Planning & Zoning Administrator may issue a notice of violation and/or order any work stopped by written notice. Such notice of violation or stop-work order shall be delivered to any person engaged in, or responsible for, the work and posted on the property. Upon delivery of such notice or order, all work shall immediately cease and shall not resume unless and until authorized by



the Planning & Zoning Administrator to proceed.

E. Notice Requirements. A copy of the notice of violation and/or stop work order shall be provided to the property owner of record and any known holder of any legal interest in the property, if applicable, via certified mail, return receipt requested, or by personal service, posting on the property, or by any other method reasonably calculated to provide actual notice. The notice shall include:

- i. The property owner and the legal description of the parcel;
- ii. A description of the nature of the violation, including applicable code section;
- iii. A description of all remedial actions that must be undertaken to resolve the violation;
- iv. The length of time allotted to resolve the violation;
- v. The penalties that may be imposed for the violation; and
- vi. Contact information for the Planning & Zoning Administrator for assistance.

F. Response and Resolution. The property owner shall have thirty (30) calendar days from the date the notice of violation was mailed or otherwise provided to resolve the violation. All activities shall remain stopped until a resolution is accepted by the County. If the violation is not resolved within thirty (30) calendar days, the landowner shall be issued a second notice of violation; provided, however, that the Planning & Zoning Administrator may grant additional time if, in the Planning & Zoning Administrator's judgment, the violation cannot reasonably be remedied within thirty (30) calendar days and the landowner is actively working to remedy the violation.

G. Second Notice. If the violation is not resolved within thirty (30) calendar days of mailing or otherwise providing the initial notice of violation, unless additional time has been granted, the County shall issue a second notice in the manner described in Section 7-9-E of this Ordinance, providing the landowner an additional fifteen (15) calendar days to correct the violation.

H. Written Determination: If the violation is not resolved within fifteen (15) calendar days of mailing or otherwise providing the second notice, the Planning & Zoning Administrator shall send the land owner a final written determination.

I. Appeal Process. The final written determination shall inform the landowner of the applicable appeal procedures. The owner or any person holding a legal interest in the property may appeal a final written determination in accordance with Section 7-6 of this Ordinance. If the appeal is denied, the decision shall specify a definite period within which the property must be brought into compliance with this Ordinance and may add to or remove conditions of remedial action. If the appeal is granted, the decision shall specify the actions to be taken by the Planning & Zoning Administrator to resolve the violation.

J. Penalties. In addition to any other remedies under this Ordinance, following a final determination of violation and the expiration of any appeal period, the following penalties shall apply:

- i. Violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor as set forth in Section 7-8 of this Ordinance.
- ii. On-Going Violation. Each day a violation continues constitutes a separate violation for civil and criminal enforcement purposes.
- iii. County Civil Action. In addition to any other remedies available under this Ordinance, the prosecuting attorney, or other attorney representing the County, may initiate a civil action in a court of competent jurisdiction on behalf of the County to prevent, restrain, correct, or abate any violation of this Ordinance, to vacate any subdivision plat approved or recorded in violation of this Ordinance, or to otherwise enforce its provisions. In addition to any other relief ordered by the court, if the County prevails, the violator shall pay to the County all costs and fees associated with the violation that are due and owing. The County shall also be entitled to the imposition of civil



penalties and fines in the amounts established by the Board pursuant to the schedule of fees and fines adopted in accordance with Section 7-10 of this Ordinance.

- iv. Enforcement against All Parties. In cases where multiple individuals, firms, corporations or agents participated in violating this Ordinance, they may be held jointly and severally liable for any remedies, penalties or payments.

K. Withholding of Permits. The Planning & Zoning Administrator may withhold issuance of permits, including building permits and certificates of occupancy, for subdivisions, lots, or parcels of land that are in violation of any provision of this Ordinance. Withholding permits may be appealed in accordance with Chapter 7-6 of this Ordinance.

L. Withholding of Applications. Applications for approvals under this Ordinance will not be reviewed or scheduled for hearing until all violations are corrected, except when the purpose of the approval is to correct the violations.

#### **7-10 Schedule of Fees and Fines:**

The Board shall establish by resolution a schedule of fees for amendments, appeals, variances, conditional use permits, subdivisions, plan approvals, building permits and inspections, and other matters pertaining to the administration and enforcement of this Ordinance, as well as a schedule of civil penalties and fines. The schedule of fees and fines shall be on file in the office of the county clerk and may be altered or amended only by the Board. Until all applicable fees have been paid in full, no action shall be taken on the application or appeal. The Board shall have the authority to waive in whole or part any fee when such a fee would present an unnecessary hardship.

**Article A: Application Procedures:**

7A-1 Purpose

7A-2 Application Requirements and Fees

7A-3 Neighborhood Meetings

5 7A-4 Notice to Agencies and Political Subdivisions

7A-5 Notice to Public

7A-6 Decision by the Administrator

7A-7 Decision by the Commission

7A-8 Decision by the Board

10

**7A-1 Purpose:**

The purpose of this Article is to provide procedures for all zoning applications covered by this title and petitions to amend the comprehensive plan.

**7A-2 Application Requirements and Fees:**

15 A. Application Requirements: All persons making application for permits and other matters herein referred to shall be required to submit to the Administrator an application on forms provided by the Planning and Zoning Department, all information listed as required on those forms, and an application fee as set forth in Subsection E of this Section.

B. Pre-application Meeting:

20 1. The purpose of the pre-application meeting is to review the proposed application(s), to discuss the procedures and requirements of this ordinance, and to review the associated application material.

25 2. Applicants shall participate in a minimum of one pre-application meeting with the Administrator prior to submission of applications for variances to flood insurance program standards, comprehensive plan amendments, variances, conditional uses, development ordinance text amendments, and zoning ordinance map amendments.

30 3. The Administrator may require additional pre-application meetings and may require pre-application meetings for applications not listed above. It may be necessary for the Oneida County engineer, County attorney, surveyor or building official to attend the pre-application meeting(s).

C. Date Of Application Submission: The date of application submission shall be the date the applicant submits to the Planning and Zoning Department the appropriate application form, the appropriate fees, and all information listed as required on the application form and applicable checklist(s).

35 D. Hearings: A public hearing, if required, shall be held no later than ninety (90) days after the date of application submission, as provided in Subsection C of this Section.

E. Fees: In accordance with the direction on the applicable application form(s) and associated checklist(s), applicants shall submit any required deposit or fee at time of application submission. Any remaining fee shall be paid prior to final decision.



**7A-3 Neighborhood Meetings:**

- A. Applicants shall conduct a neighborhood meeting for comprehensive plan amendments, rezones, variances, conditional uses, expansions or extensions of nonconforming uses, and subdivisions.
- 5 B. It shall be the sole duty of the applicant to provide written notice to all property owners or purchasers of record owning property within the radius required in Subsection 7A-5C of this Article of the exterior boundary of the application property and to all registered neighborhood associations deemed appropriate by the Administrator. The applicant shall also mail notice of the neighborhood meeting to the Oneida County Planning and Zoning Department. Notice of a neighborhood meeting shall be in addition to, and not in lieu of, mailed radius notices already required by this ordinance, except when notice of a neighborhood meeting is required of five hundred (500) or more property owners or purchasers of record, alternate forms of notice may be provided in accord with Subsection 7A-5D (1-2) of this Article.
- 10 C. The purpose of the neighborhood meeting shall be to review the proposed project.
  - 15 1. The meeting shall be on a Saturday between ten o'clock (10:00) A.M. and seven o'clock (7:00) P.M. or on a weekday between six o'clock (6:00) P.M. and eight o'clock (8:00) P.M. The meeting shall not be on a holiday, a holiday weekend, or the day before a holiday or holiday weekend.
  - 2. The meeting shall be held at one of the following locations:
    - 20 a. On the subject property;
    - b. At the nearest available public meeting place including, but not limited to, fire station, library, school, or community center; or
    - c. At an office space with suitable meeting facilities if such facilities are within Oneida County.
- 25 D. The neighborhood meeting shall be conducted prior to submission of the application. The neighborhood meeting shall not be conducted more than six (6) months prior to submission of the application.
- E. The application materials shall include a written verification of the neighborhood meeting having taken place.

**7A-4 Notice to Agencies and Political Subdivisions:**

- 30 A. The Administrator shall send a summary of development applications to applicable agencies, as determined by the Administrator. The notice shall be sent at least thirty (30) days prior to the public hearing.
- B. The Administrator shall send a summary of petitions for comprehensive plan amendments and applications for development ordinance amendments to applicable agencies and political subdivisions as referenced in Idaho Code Section 67-6509(a). The notice shall be sent at least thirty (30) days prior to the public hearing.
- 35 C. Applications within an area of city impact shall be noticed in accordance with the regulations of the Area of Impact agreement.

**7A-5 Notice to Public:**

- 40 A. Legal Notice: At least fifteen (15) days prior to the public hearing, the Administrator shall publish a notice of the time and place and a summary of the application in the official newspaper of the county.

B. Site Notice: At least ten (10) days prior to the public hearing, the Administrator shall require and/or ensure the posting of notice on the property, which is the subject of the application, except for development ordinance text amendments or comprehensive plan amendments. The sign(s) shall be posted on the land being considered along each roadway that is adjacent to it. The signs shall be located on the property outside of the public right-of-way, if they can be so located and remain clearly visible from the roadway; otherwise, the consent of the owner of the right-of-way must be obtained and the sign(s) located therein. Except as noted herein, if the land being considered consists of more than one parcel of record, a sign must be located upon each parcel. The Zoning Administrator, upon finding that adequate notice will be provided, may not require all signs to comply with the size requirements of Subsection E1 of this section. In the event that the land being considered includes properties with five hundred feet (500') or more of road frontage, a sign shall be placed on each end of the property roadway frontage. If this property includes a corner lot, three (3) signs shall be posted, one on the corner and one on each end of the property roadway frontages.

C. Radius Notice: At least fifteen (15) days prior to the public hearing, the Administrator shall send a notice of the time and place, and a summary of the application to property owners or purchasers of record (as listed in the current records of the Oneida County Assessor) owning property within six hundred feet (600') of the property being considered. The Administrator may determine, or other applications provided for in this ordinance may require, that notices be sent to property owners or purchasers of record whose properties are farther than six hundred feet (600') from the external boundaries of the property upon which the application is located.

1. The following uses shall also require notice within one thousand feet (1,000') of the property being considered:

- Aircraft landing field (private ownership).
- Airport (public ownership).
- Distributed power facility, wind rooftop.
- Explosive manufacturing or storage.
- Flammable substance storage.
- Junkyard or automobile wrecking yard.
- Manufacture or processing of hazardous chemicals or gases.
- Meatpacking facility.
- Pit, mine, or quarry requiring administrative or conditional use approval.
- Processing plant for agricultural and dairy products.
- Public or quasi-public use, public or private correctional facility.
- Racetrack, vehicle or animal.
- Sanitary landfill, restricted.
- Sawmill, lumber mill or planing mill.
- Soil or water remediation.
- Tower or antenna structure, commercial.
- Vehicle impound yard.

1. The following uses shall require notice within two thousand six hundred forty feet (2,640') of the property being considered:

- Centralized power facility.
- Distributed power facility, wind freestanding tower.
- Livestock confinement facilities with three hundred one (301) or more animal units.

D. Alternate Forms Of Notice: When notice is required of two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided as follows:



1. In lieu of mailed notice, one additional notice of the time and place of the hearing and summary of the proposal shall be published in official newspaper of the county, not less than seven (7) days prior to the hearing.

2. At least ten (10) days prior to the hearing, the Administrator shall post a hearing notice on the property following the signposting requirements of this Section.

3. At least seven (7) days prior to the hearing, a notice shall be made available to other newspapers, radio, and television stations servicing the county for use as a public service announcement.

E. Public Service Announcement: In the case of amendments to this ordinance and the comprehensive plan, the Administrator shall issue a notice to other newspapers and radio and television stations serving the jurisdiction for use as a public service announcement prior to the public hearing.

#### **7A-6 Decision by the Administrator:**

A. Following the submission of an application, the Administrator shall act upon the application within sixty (60) days. Failure of the Administrator to act upon an application shall be deemed a denial of the application.

B. The Administrator may require conditions of approval that are deemed necessary to protect the public health, safety, and welfare and prevent undue adverse impacts on surrounding properties.

C. The Administrator shall provide the applicant written findings of fact and conclusions of law in accord with Idaho Code Sections 67-6519 and 67-6535 stating the reasons for the decision reached. All conditions of approval shall be attached to the written decision.

#### **7A-7 Decision by the Commission:**

A. Hearings:

1. The commission shall hold a hearing on each application submitted for which a hearing is required within ninety (90) days after application submission.

2. Prior to the public hearing, public notice shall be provided as set forth in Section 7A-5 of this Article.

B. Decision: The Commission shall conduct the public hearing in accordance with its adopted bylaws. The Commission may continue the hearing if it determines in its discretion that additional hearings are necessary. The Commission, however, must issue a decision or recommendation, as is applicable, no later than one hundred eighty (180) days after the date of the application submission and siting of a tower or antenna structure, commercial for which the Commission must issue a decision within one hundred fifty (150) days after submission of the application. Failure of the Commission to issue a decision or recommendation within the time periods allowed in this Section shall be deemed a denial or a recommendation of denial of the application, provided, however, the Commission and applicant may mutually agree to extend the time periods for a decision to be made.

C. Conditions Of Approval: The Commission may require or recommend conditions of approval that it deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on surrounding properties.

D. Findings Of Fact: The Commission shall provide the applicant written findings of fact and conclusions of law in accord with Idaho Code Sections 67-6519 and 67-6535 stating the reasons for the decision or recommendation reached. Conditions of approval shall be attached to the written decision or recommendation. For applications where the Commission is acting as a recommending body, the Commission shall forward their recommendation to the Board.

- E. Report: For applications where a decision or recommendation is required by this ordinance, the Commission shall file a written report with the clerk of the Board stating the findings and action taken by the Commission. Such report shall be filed no later than ten (10) days after the written decision or recommendation.

5 **7A-8 Decision by the Board:**

- A. The Board may hold a public hearing within ninety (90) days after application submission or sixty (60) days after the commission makes a recommendation (if applicable).

- B. Public notice shall be provided as set forth in Section 7A-5 of this Article where applicable.

- 10 C. Where the Board has not held its own public hearing, if the Board makes a material change to a comprehensive plan amendment application or development ordinance amendment application, further notice and hearing shall be provided in accord with the regulations of Sections 7A-4 and 7A-5 of this Article, and with applicable Area of Impact agreements.

- 15 D. The Board may require conditions of approval that it deems necessary to protect the public health, safety, and welfare and/or to prevent undue adverse impacts on surrounding properties. This regulation shall not apply to applications for comprehensive plan amendments or development ordinance amendments.

- E. The Board shall provide the applicant written findings of fact and conclusions of law in accord with Idaho Code Sections 67-6519 and 67-6535 stating the reasons for the decision. Conditions of approval, if any, shall be attached to the written decision.

- 20 F. Following the approval of a comprehensive plan amendment, the Board shall adopt a resolution adopting the amendment to the comprehensive plan.

- G. Following the approval of a development ordinance amendment, the Board shall adopt an ordinance and, within thirty (30) days, publish a summary of the ordinance in the official newspaper of the county.



**Article B: Planning and Zoning Commission:**

7B-1 Duties

7B-2 Conflicts of Interest

7B-3 Appointment and Terms of Office

5 7B-4 Bylaws

**7B-1 Duties of the Commission:**

For the purpose of this Ordinance the Commission shall have the following duties:

- 10 A. The Planning and Zoning Commission shall conduct all public hearings required by this Ordinance and the laws of the state relating to the responsibilities of the Planning and Zoning Commission. It shall be the duty of the Commission to recommend or make suggestions to the Board of County Commissioners for the adoption of coordinated plans for the physical development of the county; to make recommendations regarding the layout, width, and location of streets, roads, highways, etc. for the proper management of vehicular and pedestrian traffic; to make recommendations concerning the future growth, development, and beautification of the county; to advise individuals concerning locations of buildings, structures to be constructed or altered by the individuals; to cooperate with other appointed boards to further the general welfare of the county; to review and make recommendations concerning subdivision activity and planned unit developments within the jurisdiction of the county; to review and provide recommendations to the Board concerning amendments to this ordinance and comprehensive plan.
- 15 B. Upon adoption of the development ordinance, the Commission shall be empowered to issue conditional use permits, subject to appeal by affected persons, to the Board of County Commissioners.
- 20 C. The Commission shall advise the Board in matters relating to areas of impact and annexation of lands by municipalities and other intergovernmental matters within the county.
- 25 D. The Commission shall meet annually with the Board to discuss matters relating to county planning and development.
- E. All activities undertaken by the Commission shall be consistent with budgetary appropriations established by the Board for Commission activities.
- 30 F. The Commission shall assume those additional powers and duties not listed and as may be assigned them by the Board or state statute.

**7B-2 Conflicts of Interest:**

The Board creating a Commission shall provide that the area and interests within its jurisdiction are broadly represented on the Commission. A member or employee of the Board or Commission shall not participate in any proceeding or action when the member or employee or his employer, business partner, business associate or any person related to him by affinity or consanguinity within the second degree has economic interest in the procedure or action. Such member shall not be prohibited from testifying at or presenting evidence at a public hearing or similar public process after acknowledging non-participation in the matter due to conflict of interest. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of the Section shall be a misdemeanor. Nonparticipation in the discussion due to a conflict of interest does not affect the quorum.

**7B-3 Appointment and Terms of Office**

- The Commission shall consist of seven (7) voting members, each appointed by the Chairman of the Board of County Commissioners and confirmed by a majority vote of the Board. The term of office for Commission members shall be four (4) years. The appointment and terms of all members of the
- 5 Commission shall comply with all requirements as set forth in Idaho Code 67-6504 and its successors.

**7B-4 Bylaws:**

The bylaws shall contain procedures and requirements for Commission membership, election of officers, meetings, rules of order, and voting.



## **Article C: Development Agreements**

7C-1: Purpose

7C-2: Applicability

7C-3: Process

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### **7C-1 Purpose:**

To exercise the authority granted the Board in Section 67-6511A, Idaho Code; to provide for the creation, form, recording, modification, enforcement, and termination of development agreements; and to require as a condition of a zoning ordinance map amendment approval that an owner of land make a written commitment concerning the use and/or development of that land.

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### **7C-2 Applicability:**

It shall be a precondition of approval for all applications for a zoning ordinance map amendment by, or on behalf of, an owner that the owner enters into a development agreement acceptable to the Board as part of receiving Board approval of the zoning ordinance map amendment.

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### **7C-3 Process:**

#### **A. Development Agreement Creation, Form, Approval, And Consent:**

1. Within three (3) business days after the Commission has made a recommendation on an application for a zoning ordinance map amendment by, or on behalf of, an owner, the Administrator shall forward a request to the Oneida County Prosecuting Attorney's Office to create a development agreement using the appropriate model form as approved by the Board. The Administrator's request shall include all the necessary documents pertaining to the zoning ordinance map amendment application and the creation of a development agreement, such as, but not limited to: the legal description of the land subject to the zoning ordinance map amendment application; deed(s); concept plan or preliminary plat; and any proposed conditions of development.

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2. Once the Oneida County Prosecuting Attorney's Office has drafted the development agreement, the development agreement with any attachments shall be returned to the Administrator. The Administrator shall forward it to the applicant.

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3. Approval of the zoning ordinance map amendment application by the Board shall be contingent upon the Board and owner of the land signing a mutually acceptable development agreement.

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4. By signing the development agreement the owner, and any subsequent owners, consents to having the zoning ordinance map amendment reversed, in whole or in part, upon failure to comply with the terms and/or conditions set out in the development agreement.

B. Review And Enforcement: The Administrator shall monitor the owner's compliance with the terms and/or conditions of the development agreement. The Administrator shall review the status of the development every two (2) years from the date the development agreement is signed. A more frequent review may be undertaken by the Administrator at the Administrator's discretion or at the request of the Commission or the Board. During a review the owner, or any subsequent owner, must demonstrate that they are in compliance with the terms and/or conditions of the development agreement. If the Administrator determines that the terms and/or the conditions of the development agreement are not being complied with, and such lack of compliance is not immediately resolved by the owner, the Administrator shall recommend that the Board enforce the terms of the development agreement by modification or termination.

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#### **C. Modification: A development agreement may be modified, in whole or in part, as follows:**

1. Modification In Whole Or In Part For Failure To Comply With Terms And/Or Conditions: The Board may modify a development agreement and/or reverse the zoning designation of the land or

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any undeveloped portion of the land upon the failure of the owner or subsequent owners to comply with the terms and/or conditions of the development agreement. Prior to modifying a development agreement for failure to comply with the terms and/or conditions the owner or subsequent owners shall have a reasonable time as determined in the sole discretion of the Board to come into compliance with the terms and/or conditions. Prior to modifying a development agreement, the Commission and/or the Board shall hold a public hearing in accordance with the notice and hearing provisions of Idaho Code Section 67-6509.

2. Modification by Mutual Consent: The Board and the owner or subsequent owners of the land may mutually agree to modify a development agreement and reverse the zoning map amendment, in whole or in part. Prior to modifying the development agreement by mutual consent, the Board shall hold a public hearing in accordance with the notice and hearing procedures of Idaho Code Section 67-6509.

D. Termination:

1. Termination For Failure to Comply With Terms And/Or Conditions: The Board may terminate a development agreement and reverse the zoning designation of the land or any undeveloped portion of the land upon the failure of the owner or subsequent owners to comply with the terms and/or conditions of the development agreement. Prior to terminating a development agreement for failure to comply with the terms and/or conditions the owner or subsequent owners shall have a reasonable time as determined by the Board to come into compliance with the terms and/or conditions. Prior to terminating the development agreement for failure to comply, the Board shall hold a public hearing in accordance with the notice and hearing procedures of Idaho Code Section 67-6509.
2. Termination by Mutual Consent: The Board and the owner or subsequent owners of the land may mutually agree to terminate a development agreement and reverse the zoning map amendment, in whole or in part. Prior to terminating the development agreement by mutual consent, the Board shall hold a public hearing in accordance with the notice and hearing procedures of Idaho Code section 67-6509.
3. Termination at Owner's Discretion: The owner of land subject to a development agreement may terminate the development agreement as to any remaining undeveloped land if the Board modifies the development agreement without mutual consent. In the event the owner chooses to terminate the development agreement under these circumstances, the Board may reverse the zoning designation of any undeveloped portion of the land.
4. Termination When Owner Has Complied with and/or Completed All Terms and/or Conditions: A development agreement terminates when the owner has complied with and/or completed all the terms and/or conditions of the development agreement.

E. Recording: Approved development agreements, any subsequent modification(s) thereof, or termination of a development agreement shall be recorded in the office of the Oneida County recorder. The applicant shall pay all recording fees.

F. Fees: The Board shall establish a fee for conducting reviews.



**Article D: Land Use Hearings:**

7D-1 Purpose

7D-2 Conduct of Hearings

7D-3 Record

5 7D-4 Reopening the Record

7D-5 Decision by the Board

**7D-1 Purpose:**

- 10 A. The purpose of this Article shall be to provide a procedure by which the Board or the Commission shall conduct public hearings in land use which, by federal, state, or county law, require the receipt of evidence, whether testimony, documents, or otherwise, and a response from the Board in the form of a written decision, or a decision or recommendation from the Commission, based on the record.
- 15 B. Public Hearing: Where such public hearing is required by county or state law and unless otherwise provided by Idaho Code, the Commission, prior to making a recommendation or decision to the Board, shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard pursuant to Idaho Code §67-6509. Where the Commission renders a decision as permitted by Idaho Code, the decision will be final unless appealed to the Board. Where the Commission renders a recommendation to the Board, the Board may conduct at least one public hearing in addition to the public hearing conducted by the Commission using the same notice and hearing procedures as the Commission.
- 20 If the Board elects not to hold an additional public hearing, the Board, acting in its appellate capacity, shall take judicial notice of the Commission's recommendation / decision, findings, deliberations, and the written evidence / oral testimony submitted as part of the official record and render a decision adopting, affirming, rejecting, denying, or remanding the decision / recommendation of the Commission.

**D-2 Conduct of Hearing:**

- 25 Hearings before the Board or the Commission shall be conducted in general conformance with the following procedure:

- 30 A. Generally: The Board or the Commission may require any person who will testify at a hearing to be sworn in before testifying. The Board or the Commission may place a time limit on verbal testimony. If there will be a time limitation, the limitation shall be announced at the beginning of the hearing.
- 35 B. Applicant/Appellant Presentation of Application: Hearings before the Board or the Commission shall commence with a brief overview from the applicant/appellant of the application. The applicant/appellant shall be allowed an opportunity to present testimony, documents, and other evidence which supports the application.
- C. Staff Overview of the Application: Staff shall provide an overview of the staff submission of the written report to the Board or the Commission.
- 40 D. Public Testimony: The Board or the Commission shall take comments from the public. Those providing public testimony shall be provided an opportunity to present testimony, documents, or other evidence. In its discretion, the Board or the Commission may alternate between those supporting and those opposing a particular application.
- 45 E. Applicant/Appellant Rebuttal: The applicant/appellant shall be allowed the opportunity for rebuttal. Such rebuttal shall be limited to responding to testimony, documents, or other evidence provided during the public testimony.

F. Clarification Of Factual Questions: When statements of fact in the written record appear to be in dispute from all of the testimony given, the Board or the Commission may ask the staff and/or the applicant/appellant to clarify whether the written record is in error.

G. Close Record: After the Board or the Commission closes the record and begins its deliberation, no further comments or testimony may be taken from the applicant/appellant, staff or the public.

#### **7D-3 Record:**

The staff report shall automatically become part of the record as shall any documents submitted by the applicant/appellant and the public, as shall all testimony given at the hearing. At the conclusion of the hearing, the Board or the Commission shall close the record unless the Board or the Commission determines, in its discretion, additional evidence is required, in which event, it may proceed as follows: close the record with the exception of allowing the submission of specifically requested information, leave the entire record open for the submission of additional evidence to a date certain at which time it will automatically be closed without further action of the Board or the Commission, or continue the hearing to a date certain for the purpose of receiving additional evidence and conducting such further proceedings as may, in its discretion, be advisable.

#### **7D-4 Reopening of the Record by the Board:**

Prior to the Board issuing a written decision, the Board may, for good cause demonstrated, reopen the record for the purpose of receiving additional evidence. An interested party may seek to reopen the record by filing a motion to reopen the proceedings within five (5) days prior to the date of the issuance of the Board's written decision. Said motion shall contain information demonstrating good cause to reopen the record and any costs which will be incurred by the county to comply with applicable law shall be paid concurrently with the filing of the motion. The Board shall decide an applicant's/appellant's motion to reopen the record within five (5) days of the receipt thereof. The Board may, within five (5) days of the date of its written decision, reopen the record for good cause on its own motion. If the Board determines to reopen the record, it shall thereafter comply with applicable law, if any, governing notice and hearings.

#### **7D-5 Decision or Recommendation:**

When the record has been closed, the Board or the Commission shall take the matter under advisement for the purpose of deliberating toward a decision or recommendation based on the record. After deliberating, the Board or the Commission may then immediately render a written decision or recommendation complying with applicable law or may continue the matter to a date and time certain for further deliberation and decision or recommendation.

### **Article E: Show Cause Hearing:**

#### **7E-1 Purpose**

#### **7E-2 Hearing Procedure Process**

#### **7E-1 Purpose:**

The purpose of this Article shall be to provide a procedure by which the Board conducts a hearing to determine how to handle land use violations prior to directing the action for prosecution of charges against a violator.

#### **7E-2 Hearing Procedure Process**

A. The Board of County Commissioners shall vote to determine whether to issue a Show Cause Order to a land use violator as determined by the Planning and Zoning Department Administrator.



B. Upon an affirmative vote by the Board, a Show Cause Hearing shall be scheduled before the Board. The Board may vacate the hearing date if they believe it is in the best interest of the County's resources and fairness.

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C. The Clerk of the Board shall provide at least a 14-day notice to the alleged violator via certified mail.

D. The Planning and Zoning Administrator shall provide the Board with a written report of the violations, including all correspondence between the Planning and Zoning Department and the alleged violator.

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E. The alleged violator shall be given an option to provide a response or be represented by his or her attorney.

F. The Board may enter into an agreement with the alleged violator to rectify the violation or may table the hearing to another date, if they find that further information is needed.

G. The Board shall vote whether to move forward with legal action in court and refer the action for prosecution.

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## Chapter 8

### Zoning Ordinance For Agriculture Protection Areas

|    |            |                                          |
|----|------------|------------------------------------------|
|    | Section 1  | Purpose                                  |
| 5  | Section 2  | Creation and Designation of APA          |
|    | Section 3  | Application Process                      |
|    | Section 4  | Review Process                           |
|    | Section 5  | Hearing Process                          |
|    | Section 6  | Expansion or Modification of an APA      |
| 10 | Section 7  | Termination of an APA                    |
|    | Section 8  | Enrollment Duration and Review           |
|    | Section 9  | Fees                                     |
|    | Section 10 | Enforcement, Prohibitions, and Penalties |

#### 15    **8-1 Purpose:**

The purpose of this ordinance is to provide for a voluntary process through which agricultural and timber producers of Oneida County may apply to commit lands actively devoted to agriculture for future agricultural use. An APA designation aims to protect productive farmland, rangeland, and forest land; promote farm viability; support the local agricultural economy; and provide for long-term planning stability. This ordinance sets out the process for creation of Agriculture Protection Areas.

#### **8-2 Creation and Designation of APA:**

An Agriculture Protection Area shall be designated as an "APA." An APA designation is a voluntary land use designation available to landowners who wish to protect their agricultural land from future nonagricultural development. To qualify for an APA designation, the land must be:

- 25        a) At least five (5) contiguous acres,
- b) Actively devoted to an agricultural or forest purpose,
- c) Assessed as agriculture or forest land, and
- d) Located within a zone that allows for agricultural or forest use.

Landowners wishing to establish an APA must submit an application to the Oneida County Planning & Zoning Administrator on forms adopted by the Administrator. At a minimum, the application shall include the following:

- 35        a) Name, phone number, email, and mailing address of the landowner;
- b) Proof of land ownership;
- c) A legal description of the parcels, structures, and facilities proposed to be included in the APA;
- d) A map showing the boundaries of the proposed APA;
- e) A statement outlining the current contiguous acreages of land, land use, agricultural productivity, and other relevant characteristics of the land to be included in the APA;
- f) The number of years the land has been in agricultural or forest production, the types of agricultural or forest commodities produced, and the applicant's plan to continue using the land
- 40        for agricultural or forest purposes;
- g) The stated reasons for seeking an APA designation;
- h) Soil surveys, water rights, and any other relevant environmental assessments.

#### **8-3 Application Process:**

45    The application process will be in accordance with the provisions of 7-A-2.

#### **8-4 APA Commission Review Process:**



Upon receipt of a completed application, the APA commission shall review the proposal, conduct a hearing in accordance Chapter 7 Article D, and make a recommendation to the Board of County Commissioners within sixty (60) days of receiving the application. The application shall be evaluated on the following criteria:

- 5       a) The total contiguous acreage of the land is at least five (5) acres in size and is actively devoted to agricultural or forest production,
- b) Adjacence to an existing area of city impact,
- c) Possible conflict with existing city annexation or development plans or agreements,
- d) Proximity to existing public rights of way,
- 10       e) Proximity to planned transportation corridors or future public rights of way,
- f) Proximity to planned airport expansion or development,
- g) Proximity to planned development with existing entitlements,
- h) Agricultural production capability of the land within the proposed APA, and
- i) Other local impacts relevant to the proposed APA.
- 15       Notwithstanding the criteria and review process outlined in this ordinance, the Board of County Commissioners may place additional conditions on lands designated as an APA, including, but not limited to, setbacks from existing public rights of way, setbacks from existing public structures, and a review of the land's APA designation after twenty (20) years.

#### **8-5 Board Hearing Process:**

- 20       Once the APA commission has completed its hearing and makes its recommendation to the Board of County Commissioners, the Board of County Commissioners shall hold a public hearing in accordance with Chapter 7 Article D, with Notice to Agencies and Political Subdivisions in accordance with 7A-4 and Notice to the Public in accordance with 7A-5, and issue its decision within 60 days. If the Board of County Commissioners fails to take action on the recommendation of the Agricultural Protection
- 25       Commission within sixty (60) days of the commission conducting its own public hearing and receiving such recommendation, the recommendation of the Agricultural Protection Area becomes final. The Board of County Commissioner's decision shall include findings and facts supporting its decision.

Upon making its decision, the Board of County Commissioners shall:

- 30       a) Record the designation of an APA, a legal description of the area, and any findings and facts with the county recorder within ten (10) days;
- b) Amend county land use planning maps to reflect the boundaries of the APA; and
- c) Notify relevant public officials and agencies of the designation.

#### **8-6 Expansion or Modification of an APA**

- 35       An expansion, modification, or removal of an existing APA shall follow the same application, review, and hearing procedures outlined in this section. Any expansion of an APA shall be contiguous to the APA.

#### **8- 7 Termination of an APA:**

- 40       A landowner wishing to terminate an APA must request in writing a meeting with the Board of County Commissioners. The meeting request shall include proof of APA hardship and be submitted to the Planning & Zoning Department. A request for termination is subject to review by the APA Commission in accordance with section 8-4 and a hearing by the Board in accordance with section 8-5. Early termination of the APA shall only occur upon the proving by the landowner of an undue hardship as defined in this code. The landowner seeking to terminate an APA bears the burden of proof in demonstrating the hardship. Early termination of an APA is not taken lightly and will be carefully
- 45       considered.

#### **8-8 Enrollment Duration and Review:**

Lands designated as an APA will remain so designated for a period of twenty (20) years. A landowner wishing to end an approved APA designation after twenty (20) years must notify the Board of County Commissioners in writing of their desire not to renew the land's APA designation. Failure of the landowner to notify the county, or failure of the county to review the APA terms, will result in the APA designation continuing for another twenty (20) years.

#### **8-9 Fees:**

An application fee shall be required to cover administrative costs, including, but not limited to, reviewing materials, conducting public meetings and hearings, processing and recording documents, and updating county land use maps.

#### **8- 10 Enforcement, Prohibitions, and Penalties:**

Unless otherwise approved by the Board of County Commissioners, the following land uses are not allowed within an APA:

- a) The siting of Livestock Confinement Facilities and Animal Feeding Operations, small and large; or
- b) The siting of residential, commercial, manufacturing, industrial, solar energy, wind energy, or battery storage structures; or
- c) Any other nonagricultural land uses.

The Board of County Commissioners or acting code enforcement officer shall be responsible for enforcing the provisions of this ordinance. Any person found to be in violation of this code shall be guilty of a misdemeanor and punishable as provided in Section 18-113, Idaho Code.



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.

- 5 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.

EFFECTIVE DATE - This ordinance shall be effective upon its passage and publication as provided by law.

- 10 PASSED, ADOPTED, APPROVED AND ENACTED by the Board of County Commissioners as an ordinance of the County of Oneida on the 26th day of May, 2026.

Published on: June 4, 2026.

COUNTY OF ONEIDA:

BOARD OF ONEIDA COUNTY COMMISSIONERS

15 *Bill Lewis*  
BILL LEWIS, Chairman/Commissioner

*Ken Eliason*  
KEN ELIASON, Commissioner

20 *Brian Jeppsen*  
BRIAN JEPSEN, Commissioner

25 ATTEST:

*Shanci Darius*  
~~MATTHEW LON COLTON, Oneida County Clerk~~  
*Shanci Darius, Deputy clerk*

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## **Appendices**

(Reserved)