

Development Code

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Oneida County

Oneida County Board of Commissioners

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ONEIDA COUNTY DEVELOPMENT CODE

Policy Statements

Using the findings from the analysis component segment, the planning and zoning board with consideration to public comment and input has developed the following policy statements. The policies statements will be used to formulate the planning and zoning ordinances.

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

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

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

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

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

1. The development code will define minimum lot size for residential development.
2. The development code will define standards for the siting of manufactured homes under Idaho Code 67-6509A.

3. The development code will address enforcement of noxious weed laws, and compliance with the county nuisance ordinance.
4. The development code will define and provide instructions pertaining to the Idaho fencing laws.
5. The development code will address requirements related to tract splits.
6. The development code will address setback requirements, standards for noise, landscape buffering, home occupations, and number(s) of allowable livestock on residential lots and sign standards and placement.
7. Oneida County has a Junk Yard Ordinance in place.

Policy: Protect Existing Farm Operations.

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

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

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

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

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

1. The county will use its development code to encourage provision of state approved central water systems, including water systems that produce adequate

fire flows. Where reliance on individual wells is proposed, the county will require evidence that a sufficient water supply is present.

2. On-site sewage disposal systems will be required to comply with all applicable state standards.
3. Limited resources and an already lengthy road network make it unreasonable for the County to accept responsibility for road maintenance in individual developments.
4. The development code will require safe access to public roads and highways from both connecting roads and private driveways and that private roads be constructed to standards assuring safe access for public safety and emergency services vehicles.
5. The development code will require that developers will enter into agreements that will assure that all onsite improvements will be constructed and maintained.

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

1. The planning and zoning board should conduct an annual plan and code review no later than March of each year.
2. Expand the informational background for this plan. The county should attempt to create a detailed current land use database, expand the natural resource inventory, prepare a survey of local historic resources.
3. The County will review and update annually the statistical data compatible to forecasting economical impact upon infrastructure and facilities.

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

1. The County will immediately make application for a flood plain mapping study.

2. The development code will require construction standards for development within the flood plain.

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

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

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

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

CHAPTER 1

PURPOSE, AUTHORITY, AND GENERAL PROVISIONS

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

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

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

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

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

1. Vested rights to proceed with development initiated prior to the adoption of an Oneida County Development code shall be established only by:
 - A. Having obtained a building permit in full compliance with the provisions of the previous regulations (such vested rights expire with the permit); or

- B. Having recorded a final plat in full compliance with the provisions of the previous regulations. Recording a final plat establishes a vested right to the lot layout and road network of the subdivision. It does not establish a vested right for any particular use or development of any lot.
2. Vested rights to proceed with development under the provisions of this ordinance shall be established only by:
- A. Recording a final plat in full compliance with its provisions.
 - B. Executing a development agreement in full compliance with its provisions, or
 - C. Obtaining a Class I or Class II permit in full compliance with its provisions. Such vested rights expire with the permit.

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

1. Any nonconforming use abandoned for more than 18 months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of 18 or more months.
2. There shall be no limit on repair or maintenance activities for nonconforming uses or buildings, provided that no such activity shall increase the degree of nonconformity.
3. Changes in occupancy may be permitted in nonconforming commercial or industrial buildings, provided that the new occupancy is no more intense (with intensity being measured by traffic and noise generation, parking requirements, and similar factors) than the existing. Requests for such changes in nonconforming occupancies shall be processed as applications for Class II permits.
4. Nonconforming buildings may be replaced, but only where the effect of the replacement is to lessen the adverse impact of the nonconformity on the

community, and where the degree of nonconformity is not increased. Requests for replacement of nonconforming buildings shall be processed as applications for Class II permits, except that any nonconforming building destroyed by fire or other catastrophe may be replaced without a permit (a permit may be required by the IBC), if the degree of nonconformity is not in any way increased and if the replacement is completed within 12 months of the building's destruction.

5. There are additional limitations on nonconforming uses and buildings in the Airport and Floodplain Overlay Zoning Districts.

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

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

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

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

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

CHAPTER 2

PLANNING AND ZONING COMMISSION

What This Chapter Does. This chapter establishes a county planning and zoning commission.

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

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

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

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

1. Assist members of the public in understanding the applicability and requirements of this ordinance;
2. Review applications for permits required by this ordinance, **accepting only complete applications.**
3. Arrange for the professional review of applications for Class II permits;
4. Issue certificates of compliance, based on site inspections, and enforce the provisions of development agreements;

5. Investigate possible violations of this ordinance;
6. Properly account for all fees collected in the administration of this ordinance and prepare monthly and annual reports of development activity in the county;
7. Perform all other duties assigned by this ordinance and assist the commission in the execution of its duties.

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

CHAPTER 3

ADMINISTRATIVE PROCEDURES

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

PERMIT PROCEDURES

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

1. A Class I permit shall be required for:
 - A. All lot splits on 40 or less acre tracts, and all lot splits for the purpose of residential occupancy will require a survey prior to permitting, and all tract divisions for the purpose of residential occupancy. This survey is necessary to provide an accurate legal description for the county assessor.
 - B. Any lot split or plat amendment;
 - C. Any single family dwelling;
 - D. Any home occupation (business);
 - E. Any accessory building as not provided by exemption;
 - F. Occupational changes effecting safety or health.
2. A Class II permit shall be required for:
 - A. Any subdivision as defined by Idaho Code 50-1301-12 (See definition);
 - B. Any higher density residential development, including multi-family dwellings or manufactured home parks; and

C. Any commercial or industrial development, including any major change in occupancy in an existing commercial or industrial use or structure.

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

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

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

1. Clearing and grading for agricultural purposes, the maintenance and construction of irrigation works, and grading required for the maintenance (but not change or expansion) of an existing use or structure;
2. Repair or remodeling that does not alter the exterior dimensions of the structure;
3. Accessory buildings (note that this generally exempts accessory buildings of less than 120 square feet in floor area and less than 10 feet in height);
4. Fences of eight feet or less in height (note that all fences must comply with the requirements for clear sight triangles at intersections and points of access to public roads);
5. Minor utility installations; and
6. Certain signs, as provided in Appendix A.

7. These exemptions may not apply within the Airport Overlay Zoning District.
8. The exemptions of 1, 3, 5, and 6 as listed within this section shall not apply within any stream corridor or special flood hazard established by this ordinance. All development activity within stream or special flood hazard areas shall be subject to the requirement for a permit.

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

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

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

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

1. The developer shall file a **properly completed permit application form** and the required supporting materials.
2. For Developments. The commission shall determine whether the proposed development is in compliance with the comprehensive plan and this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score of zero or more (i.e. a positive score) on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score of zero or less (i.e. a negative score) on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Where the proposed development is part of a larger development for which a Class II permit was previously approved, the commission shall also determine whether it is in compliance with the previously approved development

plan and all conditions attached to that approval. Conditions may be attached to approval of any permit.

3. For Developments. The commission shall notify the developer of the decision within 60 days.

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

5. For Plat Amendments. Plat amendments approved by the commission shall be reviewed by the board which, if it affirms the commissions findings, shall sign the amended plat.

6. Upon finding that a development or plat amendment will have a significant adverse impact on environmental quality, neighboring land uses, or public facilities and services, the commission may refer any application for a Class I permit to the board. The board may, upon confirming the commission finding, require that the application for a Class I permit be converted to an application for a Class II permit. Such referrals shall be placed on the agenda of the next regular board meeting.

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

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

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

E. The actual cost of mail and newspaper notice shall be in addition to the application fee required. No permit shall be issued until payment is received.

6. The commission shall conduct a hearing on the proposed subdivision. **No application shall be reviewed if the developer or a representative is not present.**

7. The commission shall determine whether the proposed development is in compliance with the comprehensive plan and all requirements of this ordinance. If the proposed development complies with all applicable absolute performance standards of this ordinance and has a cumulative score sufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be approved. If the proposed development fails to comply with any applicable absolute performance standard of this ordinance or has a cumulative score insufficient to permit the proposed density on the relative performance standards of this ordinance, the application for a permit shall be disapproved. Conditions may be attached to approval of any permit.

8. The commission shall notify the developer and interested parties of the commission's decision within 10 days.

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

10. The developer may file a final plat with the commission at any time after the Class II permit for a subdivision is approved.

A. The commission shall place the final plat on the agenda of the next commission meeting.

B. No public notice or hearing is required for final plats, but no final plat shall be reviewed if the developer or a representative is not present.

C. The commission shall review the final plat and determine whether it is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat and recommend that it be signed by the board. If it finds that the final plat fails to comply, it shall disapprove that plat and recommend that it not

be signed by the board. Conditions may be attached to approval of a final plat.

D. If the commission approves the final plat, the commission shall place it on the agenda of the next regular board meeting. Commission disapproval of a final plat may be appealed to the board using the appeals procedure. A notice of any such appeal shall be filed with the commission within 10 days after notice of the decision has been issued.

E. The board shall determine whether the final plat is in compliance with the subdivision permit, the comprehensive plan, and this ordinance. If it finds that the final plat complies, it shall approve that plat. If it finds that the final plat fails to comply, it shall disapprove that plat. Conditions may be attached to board approval of a final plat.

F. The Board shall notify the developer and interested parties of the board's decision within 10 days.

G. Prior to final approval of any subdivision, the subdivider shall enter into an agreement with Oneida County which shall be substantially in the following form (Appendix N).

H. In lieu of the actual completion by the subdivider and acceptance by the board of the improvements required by this title, and before the planning and zoning commission staff will approve the recordation of the final plat, the subdivider shall guarantee the installation and construction of the required improvements within 18 months from the date of final approval, and that the improvements shall be maintained in a state of good repair, free from defective material or workmanship, for a period of one year from the date of completion by one or more of the following methods (Appendix O):.

I. The owner/developer must sign the final plat within 30 days of final approval by the Board of County Commissioners.

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

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

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

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

APPEALS AND VARIANCES

Appeals. Any decision of the commission may be appealed using the procedure described here. Appeals from decisions of the commission are heard by the board.

1. The appellant shall file a properly completed notice of appeal, the required supporting materials, and the required appeal fee with the commission.
2. The commission shall place a hearing on the appeal on the agenda of the next regular commission or board meeting for which the notice requirements can be met and at which time will permit its proper consideration. Notice requirements for an appeal shall be the same as for the original permit application.
3. The commission or board shall conduct a hearing on the appeal. No appeal shall be heard if the appellant or a representative and, when the appellant is not the developer, and the developer or a representative is not present.
4. The commission or board shall determine whether the decision being appealed is in compliance with the comprehensive plan and this ordinance, and affirm, modify, or overturn the decision accordingly.
5. The commission shall notify the appellant and interested parties of the commission's or board's decision within 10 days.

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

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the commission.
2. The commission shall place a hearing on the variance on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for a variance shall be the same as for a Class H permit, and Class II permit and variance hearings may be combined where appropriate. Where such a combination is made, the hearing notice shall specifically describe the proposed

variance, including a citation of the sections of this ordinance from which a variance is requested.

3. The commission shall conduct a hearing on the proposed variance. No application for a variance shall be reviewed if the developer or a representative is not present.

4. The commission shall approve a variance only upon finding that:

A. The need for a variance results from physical limitations unique to the lot or parcel on which the variance is requested;

B. Failure to approve the variance will result in undue hardship because no reasonable conforming use of the lot or parcel is possible without a variance;

C. The alleged hardship has not been created by action of the owner or occupants;

D. Approval of the variance will not create a nuisance, result in potential harm to adjoining properties or the neighborhood, or have an adverse affect on the implementation of the comprehensive plan; and

E. The variance approved is the minimum relief from the requirements of this ordinance necessary to permit a reasonable conforming use.

F. Additional findings are required for variances in the Airport and Floodplain Overlay Zoning Districts;

G. Conditions may be attached to the approval of any variance.

5. The commission shall notify the developer and interested parties of the commission's decision within 10 days.

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

HEARING PROCEDURE

Hearing Procedure. This procedure shall be followed in all hearings before the commission or board.

1. The presiding officer (Chairperson of the Board) shall announce the purpose and subject of the hearing.
2. The presiding officer (Chairperson of the Board) shall determine whether proper notice of the hearing has been provided. If proper notice has not been provided, the hearing shall be re-scheduled.
3. The presiding officer (Chairperson of the Board) shall ask if any commission/board member wishes to declare a conflict of interest, as defined by I.C. 67-6506, in the matter to be heard and excuse any member who declares such a conflict from participation in the hearing.
4. The presiding office (Chairperson of the Board) shall ask the commission representative to present a report on the proposal being considered.
5. The presiding officer (Chairperson of the Board) shall direct questions from commission/board members. Questions asked at this time shall be solely for the purpose of clarifying the location and nature of the proposed development.
6. The presiding officer shall remind those present that all statements given must address the merits of the proposed development as measured by its compliance or lack of compliance with the comprehensive plan and this ordinance.
7. The presiding office (Chairperson of the Board) shall ask for a statement from the developer or his or her representative. Commission/board members may ask questions following this statement. All questions and replies shall be directed through the presiding officer.
8. Following the developer's statement, the presiding officer shall ask for statements from the public. Persons giving statements shall begin by stating their name and mailing address. Commission/Board members may ask questions following any statement. All questions and replies shall be directed through the presiding officer.

9. When all statements have been given, the presiding officer shall ask if any person who gave a statement wishes to speak in rebuttal to other statements or to clarify their statement. Neither new statements nor the introduction of new evidence shall be permitted at this time. Questions from commission/board members may follow each rebuttal or clarification.

10. The presiding officer (Chairperson of the Board) shall close the public hearing and call for discussion by the commission/board, resulting in action, as provided by this ordinance.

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

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

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

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

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

Decision Deadline. This section establishes the "reasonable time" for deliberation on applications by the commission required by I.C. 67-6519. The commission shall make a decision on any application for a permit within 60 days of the hearing, if a hearing is

required by this ordinance, or within 60 days of the meeting at which the application first appeared on the commission's agenda. Note that submission of an incomplete application requires no action by the commission and that applications for which a large scale development study is required are not complete and subject to action within the deadline established here until that study is complete.

ENFORCEMENT

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

Certificate of Compliance. A certificate of compliance shall be issued before any land division is offered for sale, lease, or occupancy, sold, leased, or occupied or before any development is occupied. A certificate of compliance indicates that an on-site inspection has shown that the development complies with this ordinance, including any conditions imposed upon its approval. Occupancy of a development without a certificate of compliance shall be a violation of this ordinance. Issuance of a certificate of compliance shall not be construed as approval of any violation of this ordinance that may have been discovered during the inspection.

Temporary Certificate of Compliance.

1. A temporary certificate of compliance may be issued to permit temporary use of a structure in cases where weather prevents the prompt completion of such required improvements as landscaping. No temporary certificate of compliance shall be issued for more than 180 days.

2. A temporary certificate of compliance may be issued for the use of one manufactured home or recreational vehicle as temporary living quarters while a

single family dwelling for which a permit has been approved pursuant to this ordinance is being constructed.

A. No such certificate shall be issued, and no such occupancy permitted, until an approved sewage disposal system has been installed, and the temporary living quarters connected to that system.

B. The temporary certificate of compliance expires with the permit and the temporary living quarters shall be removed before a certificate of compliance can be issued for the completed single family dwelling.

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

1. The commission shall notify the occupant (and owner, if they are not the same) of the violation by first class mail and/or posting on the site. The notice shall describe the violation, cite the section/s of the ordinance being violated, and order the occupant to attain compliance within 15 days.

2. Any person who receives a notice of violation may request inspection by the commission to show that compliance has been attained within 30 days allowed, or:

A. File a written request with the commission or for an extension of time to attain compliance, with such extensions being limited to a maximum of 60 days and culminated by an inspection to show that compliance has been attained;

B. File an appeal of the commission's notice, following the appeals procedure.

3. The commission shall ask the prosecuting attorney to commence legal action, as authorized by I.C. 67-6527, against any occupant or owner who fails to attain compliance within the specific time, or to show, on appeal, that a violation has not occurred.

Public Endangerment. The enforcement procedure provided here may be accelerated when the commission finds that public health and safety could be endangered by a

violation. In such cases, the commission shall ask the prosecuting attorney to take immediate action to end the danger to public health and safety.

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

AMENDMENTS

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

1. The developer shall file a properly completed application form, the required supporting materials, and the required application fee with the commission.
2. The commission shall place a hearing on the application on the agenda of the next regular commission meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice requirements for an amendment shall be as set by I.C. 67-6509 or I.C. 67-6511(b).
3. The commission may contract with a planner for professional review of the application, with the cost of that review being covered by the developer. Such reviews shall be prepared in the form of a written report submitted to the commission for use at the hearing. The commission shall, upon its receipt, provide a copy of this report to the developer and place it on file for public review with the other application materials.
4. The commission shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the developer or a representative is not present.
5. In the case of proposed plan amendments, the commission shall determine whether the proposed amendment is consistent with the public interest, and recommend that the board approve or disapprove it accordingly. In the case of proposed ordinance amendments, the commission shall determine whether the proposed amendment is consistent with the comprehensive plan, and recommend that the board approve or disapprove it accordingly.

6. The commission shall convey the commission's recommendation to the board and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular board meeting for which the notice requirements can be met and at which time will allow its proper consideration. Notice shall be provided in the same manner as for the hearing before the commission.
7. The board shall conduct a hearing on the proposed amendment. No application for an amendment shall be reviewed if the person who petitioned for the amendment or a representative is not present.
8. The board shall determine whether the proposed amendment is consistent with the public interest and/or the comprehensive plan and approve or disapprove it accordingly.
9. The board shall notify the developer and interested parties within 10 days. No amendment to this ordinance shall become effective until that amendment has been adopted as an ordinance and published as required by law.

VACATION OF PLATS

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

1. The petition for vacation and the required fee shall be filed with the commission, who shall place consideration of that petition on the agenda of the next regular commission meeting at which time will permit its proper review.
2. The commission shall review the proposed vacation and recommend that the vacation either be accepted or denied by the board.
3. The commission shall notify the board and the petitioner of the commission's recommendation within 10 days, and unless the petitioner withdraws the petition, place a hearing on the proposed plat vacation on the agenda of the next regular board meeting for which the notice requirements can be met, and at which time will permit its proper review.
4. Notice of the hearing shall be provided, as follows: a) by first class mail; to all owners of property within, and within 300 feet of, the boundaries of the plat proposed to vacated, at least 10 days before the hearing; and b) by newspaper publication; two successive legal notices in the official newspaper, with the final newspaper notice appearing at least seven days prior to the hearing.

5. The board shall conduct a hearing on the proposed plat vacation. No petition shall be reviewed if the petitioner or a representative is not present.

6. The board shall accept or reject the petition for vacation, with acceptance based on findings that:

A. The vacation will not eliminate safe road access to any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat;

B. The vacation will not eliminate easements or rights-of-way used for utilities serving any lot or parcel that is in separate ownership and was formerly included in, or is adjacent to the plat; and

C. All owners of property or property interests within the plat proposed to be vacated have consented, in writing, to the vacation.

7. The commission shall notify the petitioner and interested parties of the board's decision within 10 day.

CHAPTER 4

ESTABLISHMENT OF ZONING DISTRICTS

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

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

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

Zoning District Boundaries.

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

CHAPTER 5

PERFORMANCE STANDARDS FOR DEVELOPMENT REVIEW

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

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

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

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

1. **Importance Factors.** This ordinance assigns an importance factor to each relative performance standard. Importance factors range from "1" to "5" and reflect the importance of the performance standard to which they are assigned in implementing the comprehensive plan and in comparison with other relative performance standards. An importance factor of "1" is assigned to the least important relative performance standards and an importance factor of "5" to the most important. Importance factors may be changed by amendment of this ordinance only.
2. **Point Assignment.** Point assignment provides a systematic technique for assessing the implementation of the relative performance standards. A positive point assignment reflects the successful implementation of a relative performance standard, while a negative point assignment reflects a failure to implement a relative performance standard. Points shall be assigned to each development on the basis of its performance on each relative performance standard using these guidelines:

- A. -2 points shall be assigned where there is essentially no effort to implement the performance standard;
 - B. -1 points shall be assigned where there is an inadequate attempt to implement the performance standard;
 - C. 0 points shall be assigned where the performance standard is not relevant OR there is only minimally adequate implementation of the performance standard;
 - D. +1 points shall be assigned where there is a successful effort to implement the performance standard; and
 - E. +2 points shall be assigned where there is a successful effort to implement the performance standard.
 - F. Relative performance standards may be designed to use the full point range described here or strictly to discourage (using only negative point assignments) or encourage (using only positive point assignments) certain kinds of performance.
3. Score. The importance factor of each relative performance standard is multiplied by the points assigned to obtain a score.
4. Cumulative Score. Scores on individual relative performance standards are summed to calculate a cumulative score. If that cumulative score is not "0" or greater, the application for a permit shall be disapproved.

PERFORMANCE STANDARDS FOR MAINTAINING NATURAL ASSETS

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

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

1. Identify runoff and erosion hazard areas of the site;
2. Identify areas and facilities, both on and downstream from the site, that are vulnerable to damage from accelerated runoff or erosion;
3. Show how the retention of existing vegetation will be maximized and land disturbance minimized;
4. Show how the area disturbed by construction at any one time will be minimized and how disturbed areas will be stabilized during the construction period;
5. Show how disturbed areas will be promptly, permanently stabilized by revegetation or structural techniques;
6. Show how runoff velocities will be minimized and drainage ways will be prepared to handle any acceleration or increase of runoff;
7. Show how any additional runoff generated will be retained on-site and absorbed, evaporated, or released from the site at a rate not exceeding the pre-development rate of release;
8. Show how sediment resulting from accelerated soil erosion will be retained on site; and
9. Show how water quality in adjoining or nearby streams and wetlands will be protected by retention of existing vegetation, installation of vegetative filler strips, and similar means.

Wetlands.

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

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

1. Minimum development setbacks shall be required along all streams. The use of buffers created by this requirement shall be compatible with the protection of stream corridor value.

A. Roads and utility lines may cross stream corridors, but the number and width of such crossings shall be minimized. Irrigation works (dams, head gates, ditches, etc.) may be placed in stream corridors, as may hydroelectric power generation facilities, upon issuance of a Class II permit, and all required state and federal permits.

B. Stream corridor buffers may be left in, or restored to, native riparian vegetation or planted as lawns. They may not be developed, except as permitted in A. above.

C. The development setbacks required here shall be clearly shown on final site plans and final subdivision plats. In subdivisions, the setback line shall be located by a permanent monument on each lot line that runs more or less perpendicular to the stream and at the center of each lot that borders the stream.

2. The open space use of stream corridors and retention or restoration of riparian vegetation shall be encouraged. **-2/+2** Compliance with the minimum development setback requirements shall receive an award of "0" points only. Positive points may be awarded for:

A. Retention of the stream corridor in common (for use by residents only) or public (dedicated to an agency that accepts responsibility for maintenance) open space; and/or

B. Retention of functional riparian vegetation, including its protection during construction, on at least 90% of the stream frontage. "Functional" riparian vegetation has the structure and species diversity needed to serve the water quality, flood control, wildlife habitat, and/or aesthetic functions on which the stream corridor protection strategy of the comprehensive plan is based.

MINIMUM STREAM CORRIDOR SETBACKS

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

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

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

1. For Individual Structures, Including All Single Family Dwellings: Provide a fire defensible space of at least 30 feet around the home or structure. **-2/+2** A defensible space is one in which trees are thinned so that crowns do not overlap or touch, woody brush is removed or substantially thinned, and dead fuel is removed. Maintenance of the defensible spaces is a requirement for continuing compliance with this ordinance.

2. For Subdivisions: Thin or remove woody brush and remove dead fuel from the entire site, and provide appropriate perimeter and, in larger developments, internal fuel breaks. **-2/+2** A fuel break is a strategically located strip of land in which trees and woody brush has been thinned and fuel removed to create an open “park-like” appearance. Fuel breaks either include roads or are accessible to fire fighting apparatus. Fuel breaks are generally at least 200 feet in width, with the width increasing on slopes over 10%.

Native Plants. The use of native plants propagated from local stock in the re-vegetation and buffering efforts required by this ordinance shall be encouraged. **0/+2**

Air Quality. All developments shall demonstrate continuing compliance with state and federal air quality regulations.

PERFORMANCE STANDARDS FOR MAINTAINING AGRICULTURAL RESOURCES AND THE FARM ECONOMY

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

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

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

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

Agricultural Industries. While the protection of existing agricultural operations is an important goal of this ordinance and the comprehensive plan, it is also recognized that new agribusiness developments in certain areas could have an adverse impact on existing nonagricultural uses. For that reason, new dairies and feedlots with a capacity of more than 100 head and new agricultural processing and wholesaling operations are classified

as industrial rather than agricultural uses, and shall be required to comply with the performance standards adopted in this ordinance.

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

PERFORMANCE STANDARDS FOR ASSURING LAND USE COMPATIBILITY

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

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

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

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

Home Occupations. Home occupations shall comply with the detailed performance standards of Appendix D.

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

1. Is the proposed lot coverage and landscaping compatible with neighboring uses? -2/1 For single family dwellings, subject to Class I permit review only, it shall be assumed that any lot coverage of less than 50% is compatible, provided that the setbacks as defined in the Setback are maintained from all property lines or that the setbacks comply with A. or B., below:

A. In subdivisions platted prior to the effective date of this ordinance where recorded covenants dictate front, side, and rear setbacks for single family dwellings that are less than those adopted in Setback Table, new development shall be found compatible (i.e. zero points will be assigned) where the setbacks provided by the covenants are observed, provided that:

- I. The subdivision was not vacant on the effective date of this ordinance;
- II. Existing dwellings have observed the setbacks provided by the covenants;
- III. The front setback along arterial roads will not be reduced below 50 feet; and
- IV. No setback will be insufficient for access by fire fighters.

B. In subdivisions platted prior to the effective date of this ordinance where recorded covenants do not dictate front, side, and rear setbacks for

single family dwellings, or where such covenants exist, but have not been enforced, new development with setbacks less than those adopted in the Setback Table may be found compatible (i.e. zero points will be assigned) where it is consistent with previous development. It shall be the responsibility of the developer to demonstrate compatibility with this exception by providing the commission with a scale drawing or aerial photograph of the subject lot and surrounding lots on which existing structures are accurately located and the front, side, and rear setbacks shown. If the drawing shows that the proposed setbacks are consistent with, or greater than, those on at least 50% of the surrounding lots, the commission may find they are compatible, provided that: the front setback along arterial roads is not reduced below 50 feet; and no setback will be insufficient for access by fire fighters.

SPECIFICATION STANDARDS FOR SINGLE FAMILY DWELLINGS

YARD	SETBACK
Front Yard, All Roads & Streets	50 Feet
Side Yard, Along Streets	50 Feet
Rear Yard	30 Feet
Side Yard	20 Feet

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

2. Is the proposed building height compatible with neighboring uses? **-2/0** For single family dwellings, subject to Class I permit review only, it shall be assumed that any building height of less than 30 feet is compatible.

3. Is the proposed building bulk compatible with neighboring uses? **-2/1**

4. Is the proposed activity level compatible with neighboring uses? **-2/1** The level of activity shall be measured by the projected traffic generation and noise levels, proposed hours of operation, proposed size and number of signs, and similar factors.

5. Does the proposed development block scenic views from existing uses or public recreation areas? **-2/0**

Gravel Mining. Gravel mining operations shall comply with the detailed performance standards of Appendix K.

Buffering.

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

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

Signs. Signs shall comply with the detailed performance standards of Appendix A.

PERFORMANCE STANDARDS ASSURING PROVISION OF ADEQUATE FACILITIES AND SERVICE

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

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

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

Individual Water Supplies. Where reliance on individual water supplies is proposed, evidence shall be provided that an adequate quantity and quality of water is available for the proposed development. The required evidence may be in the form of documented

experience with existing wells at geologically similar, neighboring sites or records of on-site well tests.

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

Private Utilities.

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

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

Safe Access.

1. Points of access to public roads shall be constructed in compliance with the standards of Appendix F. Developments with points of access to a state or federal highway shall obtain approval for those points of access from the Idaho Transportation Department.
2. All developments are encouraged to minimize the number of points of access to arterial roads and highways. **-2/1**

3. All developments containing six or more dwelling units, or with a distance of more than 660 feet from a public road which is maintained on a year round basis, shall provide a minimum of two points of ingress and egress from the public road or highway serving the development. "Loop" systems that return to a single point

of access to the public road or highway may be acceptable for relatively small developments (500 or less projected average daily traffic).

4. All developments are encouraged to provide provisions that will eliminate backing into arterial roads or highways. -2/+2

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

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

A. Development Standards:

1. Right of Way Width: The minimum right of way width shall be the standard in Appendix F.

2. Interference with Development: Rights of way must be located so that they do not interfere with future development.

3. Care and Maintenance: All development on private rights of way of two (2) lots or more shall establish a homeowner's association or similar organization that will be responsible for the care and maintenance of the right of way and any common property or utilities. A complete set of protective covenants shall outline the care and maintenance of all private utilities, street improvements and common spaces. The protective covenants shall also set forth the funding mechanism for that maintenance.

B. Guarantee of Improvements: All improvements required by this title or by the planning and zoning commission shall be guaranteed in a manner which is consistent with the provisions of this title.

C. Building Permit Issuance: No building permit for any structure within a development on a private right of way shall be issued until:

1. Sewers and Storm Drains: All required public or commonly owned sanitary sewers, storm drains, and culinary water lines have been installed and are operable.
2. Easements: All easements and right of way of utilities and access have been recorded in the office of the Oneida County Recorder.
3. Covenants: The protective covenants have been recorded in the office of the Oneida County Recorder.
4. Guarantee of Improvements: The guarantee of improvements not already installed and accepted by their respective agencies has been provided to the board.

Public Access.

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

Fire Protection.

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

ADDITIONAL PERFORMANCE STANDARDS FOR LARGE SCALE DEVELOPMENT

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

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

against the required deposit as necessary. Unused funds shall be returned to the developer upon completion of the study.

E. The application shall be considered complete and a hearing scheduled only after completion of the large scale development study.

Performance Standards for Maintaining and Protecting Existing Commercial Operations/Developments.

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

CHAPTER 6

AIRPORT OVERLAY ZONING DISTRICT

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

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

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

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

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

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

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

1. Within the horizontal and conical zones: No permits shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

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

3. In the areas lying within the limits of the transition zones, but beyond the perimeter of the horizontal zone: No permit shall be required for trees with a growth habit of less than 30 feet, or for exempt structures of less than 30 feet in height, except when, because of topographic features, such a tree or structure would extend above the height limits for those zones.

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

Nonconforming Uses: Additional Requirements

1. Nonconforming uses within the Airport Overlay Zoning District may include trees and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.

2. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted; but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of this ordinance.

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

CHAPTER 7

FLOODPLAIN OVERLAY ZONING DISTRICT

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

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

Division I - Administration of Federal Flood Insurance Program Requirements

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

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

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

1. I understand that, while the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations, larger floods can and will occur.
2. I understand that the projected flood levels at my development site may be increased by man-made or natural causes.

3. I understand that this ordinance does not imply that land outside the area of special flood hazard or uses permitted within such areas will be free from flooding or flood damage.

4. I understand that this ordinance does not create any liability on the part of Oneida County, of any officer or employee thereof, or on the part of the Federal Insurance Administration for flood damages.

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

1. Elevation of the lowest floor, including basements, of all proposed buildings.
2. Elevation to which any existing or proposed building has been or will be flood proofed.
3. All buildings other than single family dwellings certification by an engineer or architect that the flood proofing methods used comply with these performance standards.
4. Where alteration of a watercourse is proposed: a description of the extent to which the watercourse will be altered or relocated as a result of the proposed development, and proof that all state or federal permits required for that alteration have been approved. The developer shall provide the base flood elevation data for all subdivisions or other developments that include 50 or more lots or dwelling units, or five or more acres.
5. All subdivision proposals shall be consistent with the need to minimize flood damage. Where base flood elevations data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

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

1. Determine that all required state and/or federal permit have been obtained before reviewing any application for a permit in the Floodplain Overlay Zoning District.

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

Division 2 - Performance Standards for Special Flood Hazard Areas

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

Construction Materials and Methods. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Utilities and Solid Waste.

1. All new and replacement water supply systems including sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

2. Commercial or industrial solid waste handling and storage facilities shall not be located in the Floodplain Overlay Zoning District.

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

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

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

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

flood elevation. Manufactured home (mobile home) parks shall not be permitted in the Floodplain Overlay Zoning District.

5. Recreational vehicles placed on sites are required to either: (i) be on the site for fewer than 180 consecutive days. (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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

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

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

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

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

1. Construction and substantial improvement of dwellings shall result in the lowest floor being elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or to at least two feet, where no depth number is specified.

2. All new construction and substantial improvement of nonresidential buildings shall:

a) be graded and drained to guide floodwater around and away from existing and/or proposed buildings; and

b) have the lowest floor elevated above the highest adjacent grade of the building site to or above the depth number specified on the FIRM or, where no depth number is specified, to at least two feet above the highest adjacent grade; or together with its appurtenant utility and sanitary facilities, be flood proofed so that any space below that level is watertight, with substantially impermeable walls and structural components capable of resisting hydrostatic and negative direct current loads and the effects of buoyancy. Compliance shall be certified by an engineer or architect.

Division 3 - Variances in the Floodplain Overlay Zoning District

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

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

CHAPTER 8

ADDITIONAL PERFORMANCE STANDARDS FOR SUBDIVISIONS AND MANUFACTURED HOME PARKS

What This Chapter Does. This chapter provides additional performance standards for land divisions and the development of manufactured home parks, which are also subdivisions. These performance standards apply in all zoning districts and to all subdivisions.

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

CHAPTER 9

REQUIRED IMPROVEMENTS: INSTALLATION AND MAINTENANCE

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

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

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

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

Standards for Required Improvements. All required improvements shall be installed in compliance with this ordinance and any design and engineering standards separately

adopted by the county or other agencies responsible for providing services to the development.

Time of Installation/Development Agreements.

1. Developers may install all required improvements before a final plat is recorded or the development is offered for lease or sale, leased, sold, or occupied.
2. Developers may elect to record final plats of the development in phases and/or offer phases of the development for lease, sale, or occupancy before all required improvements are installed. Phasing shall be permitted pursuant to a development agreement that:
 - a. Incorporates a conceptual site plan of the entire development (the site plan used as a basis for permit approval) and a detailed site plan and construction drawings of the initial phase/s.
 - b. Identifies all required improvements in the initial phase/s and establishes their estimated cost.
 - c. Sets a schedule for the completion of the required improvements in the initial phases and an anticipated schedule for future phases.
 - d. Guarantees completion, repair, and one year's maintenance of all required improvements in the initial phase/s and provides a process for the submission of detailed plans, cost estimates, and the guarantee of improvements in future phases.
 - e. Provides a process by which the county may, if necessary, complete required improvements using the guarantee/s provided.
 - f. Provides a process by which either party may request re-negotiation of the development agreement.
 - g. Provides a process by which the development agreement may be transferred, with county approval, to the developer's successors.
 - h. Provides that the development agreement and any vested rights it confers shall be void if the county is required to "call" a guarantee to complete required improvements or if the anticipated schedule required by c., above, is not met or renegotiated. The developer shall have the right to re-negotiate the anticipated schedule without losing vested rights, provided that such negotiations are initiated, by the developer, within 90 days after failure to initiate or complete a phase as scheduled.

- i. An “initial” phase is any phase anticipated to begin within 18 months. The anticipated schedule may set times for the initiation or completion of a phase in terms of reasonable ranges of no more than 12 months.

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

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

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

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

Inspection and Acceptance of Improvements. Required improvements shall be inspected by the administrator before acceptance. Acceptance of required improvements shall be by action of the county commissioners, following submission of the developer’s

written request for acceptance and receipt of the administrator's report that all improvements have been inspected and are in compliance with these regulations.

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

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

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

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

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

Open Space Maintenance. The maintenance of any open space is required for compliance with these regulations and shall include fencing, where required; control of

noxious weeds; litter removal; and wildfire suppression. Maintenance activities shall not diminish the open space values (wetlands, slopes, etc.) being protected.

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

CHAPTER 10

ONEIDA COUNTY
MANUFACTURED HOME
and
MANUFACTURED HOME PARK ORDINANCE
ORDINANCE NO. 2000-5-1

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

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

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

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

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

A. MANUFACTURED HOME PARK - Any area or tract of land upon which three (3) or more manufactured homes or trailer coaches are parked for living and/or sleeping purposes, such premises set apart for the purpose of supplying to the public parking space for such manufactured homes for sleeping purposes. “Manufactured Home Park” shall be deemed to be synonymous with “Trailer Court” or “Camp” or such other names as may be used in connection with the use as defined herein.

B. MANUFACTURED HOME - A dwelling unit, factory-built and factory assembled, designed for conveyance after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy, except for minor incidental unpacking and assembly operations such as locating on jacks or other foundation, or connection to utilities and which may have sleeping, cooking, and plumbing facilities and intended for

which may have sleeping, cooking, and plumbing facilities and intended for human occupancy as a residence or as an office or business building.

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

C. MANUFACTURED HOME SPACE - A plot of ground within a manufactured home park designed for the location of all accessory structures, cabanas, etc., or other add-on enclosed space at least ten (10) feet wide and forty-five (45) feet long.

E. SERVICE BUILDING - A building housing the following facilities for public use and/or use of all occupants within a manufactured home park. Mop-water closet, toilet, and bathing facilities for both men and women.

F. ACCESSWAY - An unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured home park and connects to a public street.

G. BUILDING INSPECTOR - Any duly appointed officer of the County of Oneida, or his authorized representative, charged with the administration, and enforcement of the provisions of this Ordinance.

H. DEPENDENT MANUFACTURED HOME OR TRAILER - A manufactured home which does not have a toilet and/or bathtub or shower.

I. INDEPENDENT MANUFACTURED HOME - Shall mean a manufactured home as described above, which has a flush water closet and bath or shower.

J. SETBACK - Yard requirements. The distances that buildings or uses must be removed from their lot lines. Setbacks shall be measured, where applicable, from proposed or actual public or private street right-of-way lines.

SECTION 4 - APPLICATION AND BUILDING PERMIT:

A. PERMIT REQUIRED:

1. No person, firm or corporation shall construct, enlarge or alter any manufactured home park without first obtaining a building permit issued for the performance of such by Oneida County, and approval by the Southeastern District Health Department, as prescribed in Idaho State Code.

2. No person, firm or corporation shall relocate/install any manufactured home unit, or enlarge, alter or reconstruct any manufactured home unit which has been installed or located permanently or temporarily within Oneida County, without obtaining a building permit from Oneida County.

3. Application Procedure. Application for the construction, enlargement of alteration of a manufactured home park shall be made by filing a general line plot plan and five copies prepared by a professional engineer licensed in the State of Idaho showing the following:

- a. General location in relation to existing streets.
- b. Access roads within proposed manufactured home park.

- c. Location and dimensions of each manufactured home space.
- d. Location of parking spaces.
- e. Location and description of proposed fences, ornamental fences and landscaping.
- f. Location of all utility lines, such as water, gas, sewer, disposal facility, telephone, electrical, etc.
- g. Topography to 1 foot contours.
- h. Storm water drainage plan.

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

SECTION 5 - MANUFACTURED HOME RESTRICTION:

A. All manufactured home units installed in Oneida County, prior to the effective date of this ordinance, must be registered with the office of the Assessor of Oneida County, within 90 days of the effective date hereof.

B. No building permit shall be issued until the building inspector has inspected and confirmed that the unit meets the following: (a) was constructed to federal manufactured home construction standards and (b) is constructed to hurricane standards if located in HUD Wind Zone II or III, and has certified the same to be correct.

C. ORDINANCE COMPLIANCE - Manufactured home parks and/or individual manufactured home units must be located or constructed within the requirements of any applicable Oneida County ordinances and the Idaho State Code. Individual manufactured

home units must be located or constructed within the requirements of all county set back and other building ordinances, and state statutes relating to residential building. All manufactured home units located or installed outside of manufactured home parks must be a minimum of 20 feet wide and contain a minimum of 1,000 sq. feet.

D. If the use of property for a manufactured home park or individual manufactured home unit is discontinued for any reason for more than 6 months, it shall be re-established only upon application for and inspection of said property by the Oneida County Building Inspector.

E. If a manufactured home is moved into an established manufactured home park, it must be registered with the Oneida County Assessor's office before it can be legally occupied, also any change of ownership of a manufactured home located in a manufactured home park must be evidenced by title transfer and change of registration with the office of the Oneida County Assessor before the manufactured home can be legally occupied by the new owner.

F. A temporary permit can be issued by the Oneida County Commission for a manufactured home to be used temporarily while constructing a home or other temporary use. The permit will be good for 6 months and may be renewed once.

G. A service or business permit for a manufactured home will be issued by the Oneida County Commission and will comply with all requirements of this ordinance.

SECTION 6 - GENERAL CONDITIONS & LAYOUT OF PARKS:

A. ACCESS ROADS. Each manufactured home park shall be provided with

asphalt or concrete roads at least twenty (20) feet wide to serve each manufactured home space and common park areas. Each such access road should be continuous and unobstructed and shall connect directly to a public street. Direct vehicular access to manufactured home space shall be limited to the access road provided. Where any access road connects to two (2) or more public streets, it shall be arranged so as to discourage through traffic.

B. OFF STREET PARKING. Hard surface parking space shall be provided for the parking of motor vehicles in the ratio of at least two parking spaces to each manufactured space.

C. MANUFACTURED HOME SPACE SIZE. Each manufactured home space shall have a minimum area of five thousand (5,000) square feet and a minimum width of fifty (50) feet.

D. MINIMUM YARD CLEARANCES FOR A MANUFACTURED HOME SPACE. Each manufactured home shall have the following minimum yard clearances:

- a. Front yard on a private access road: 25 feet.
- b. Side yard on door side of manufactured home: 20 feet.
- c. Side yard on no access side of manufactured home: 5 feet.
- d. Rear yard: 20 feet.

E. MINIMUM YARD CLEARANCES FOR MANUFACTURED HOME PARK. Each manufactured home park shall have the following minimum yard clearances between the park boundary and the nearest space boundary:

- a. Front or side yard on a public street: 30 feet or according to County Ordinance.
- b. Side yard bordering adjacent property: 15 feet.
- c. Rear yard bordering adjacent property: 15 feet.

F. SEWAGE AND LIQUID WASTE. All plumbing in the manufactured home park shall comply with State plumbing, health laws, and regulations. Each manufactured home space shall be provided with at least four (4) inch sewer disposal connection. The sewer service connection shall be provided with suitable fittings, so that a water-tight connection can be made between the manufactured home drain and sewer connection. Such individual manufactured home connections shall be so constructed that they can be closed when not linked to a manufactured home, and shall be capped in such a manner as to maintain them in an odor-free condition.

G. WATER SUPPLY. An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park.

- a. All water piping shall be constructed and maintained in accordance with State and County law; the water piping system shall not be connected with non-potable or questionable water supplies, nor be subject to the hazards of backflow or back siphonage.
- b. Individual water service connections which are provided for direct use by manufactured homes shall be so constructed that they will not be damaged by the parking of such homes.

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

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

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

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

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

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

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

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

SECTION 7 - STANDARD OF CONSTRUCTION:

A. All building, electrical, plumbing and fire protection construction shall comply with all State and County Construction Standards and Codes.

B. All manufactured home units outside the Manufactured Home Parks must be placed upon an approved permanent foundation.

C. All manufactured home units shall be skirted with matching siding material when applicable.

SECTION 8 - VARIANCE PROCEDURE:

A. PURPOSE. The Planning and Zoning Commission may recommend to the Commissioners, as a result of unique circumstances a variance from strict compliance with specified provisions or requirements of this Ordinance or that application of such provision or requirement is impracticable.

B. FINDINGS. No variance shall be favorably acted upon by the Commission unless there is a finding upon recommendation by the Commission that all of the following exists:

4. That there are such special circumstances or conditions affecting the property that the strict application of the provisions of the Ordinance would clearly be impracticable or unreasonable. In such cases, the Developer shall first state his reasons in writing as to the specific provisions or requirements involved.
5. That strict compliance with the requirements of this Ordinance would result in extraordinary hardship or that these conditions would result in inhibiting the achievement of the objectives of this Ordinance.
 - a. That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
 - b. That such variance will not violate the provisions of the Idaho Code.
 - c. That such variance will not have the effect of nullifying the interest and purpose of this Ordinance.
 - d. The fact that an Owner or Developer could realize a greater financial return by use of this property that is contrary to these regulations is not a sufficient reason for change. Hardship cannot

be proved where it can be shown that the property was purchased with the knowledge of existing restrictions, nor can hardship be claimed in items of prospective sales or potential customer.

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

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

SECTION 10 - APPLICATION. This Ordinance shall apply to all unincorporated areas of Oneida County.

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

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

APPENDIX A - DETAILED PERFORMANCE STANDARDS FOR SIGNS

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

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

PERFORMANCE STANDARDS

Placement of Signs. No sign shall be placed:

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

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

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

1. Home occupation signs are permitted by Appendix D.

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

Illuminated Signs. Signs with a constant source of illumination shall be permitted for commercial uses. No flashing, blinking, or moving signs are permitted. Spotlights or other fixtures used for the illumination of a sign shall be placed in compliance with the provisions of this ordinance prohibiting light or glare that constitutes a nuisance and shall not constitute a traffic hazard.

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

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

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

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

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

IC 31-3805. Delivery of water.

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

1. The water rights appurtenant and the assessment obligation of the lands in said subdivision which are within the irrigation entity have been transferred from said lands or excluded from an irrigation district by the owner thereof, or by the person, firm, or corporation filing the subdivision plat; or
2. The owner or person, firm or corporation filing the subdivision plat has provided for underground tile or other like satisfactory underground conduit to permit the delivery of water to those landowners within the subdivision who are also within the irrigation entity, with the following appropriate approvals:
 - A. For proposed subdivisions within the incorporated limits of a city, the irrigation system must be approved by the city zoning authority and the city council with the advice of the irrigation entity charged with the delivery of water to said lands.
 - B. For proposed subdivisions located outside incorporated cities but within one (1) mile outside the incorporated limits of any city, both city and county zoning authorities and city council and county commissions must approve such irrigation system in accordance with Section 50-1306, Idaho Code. In addition, the irrigation entity charged with the delivery of water to said lands must be advised regarding the irrigation system.
 - C. For proposed subdivisions located in counties with a zoning ordinance, the delivery system must be approved by the appropriate county zoning authority and the county commission with the advice of the irrigation entity charged with the delivery of water to said lands.

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

- A. That water deliveries have not been provided; and
- B. That the purchaser of the lot must remain subject to all assessments levied by the irrigation entity; and
- C. That the individual purchaser shall be responsible to pay such legal assessments; and
- D. That the assessments are a lien on the land within the irrigation entity; and
- E. That the purchaser may at a future date petition the appropriate irrigation entity for exclusion from the irrigation district.

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

IC 31-3806. Civil Action to enforce.

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

Any person, firm or corporation who shall omit, neglect, or refuse to provide the purchaser or the irrigation district within whose boundaries the land is located, a copy of

the disclosure statement required by subsections (2)(a) and (2)(b) of Section 31-3805, Idaho Code:

1. Shall be liable to the purchaser as provided in subsection (1) of this section.
2. Shall be liable to the irrigation district for its reasonable expense, including employee time, of locating the purchaser and providing the information required in the form, and for advising affected purchasers of the lack of a water delivery system, and for any assessments on the property that are past due at the time of discovery of the violation. The irrigation district affected shall have a right to claim such expenses in a civil action.

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

APPENDIX C - DETAILED PERFORMANCE STANDARDS FOR NOISE

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

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

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

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

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

APPENDIX D - DETAILED PERFORMANCE STANDARDS FOR HOME OCCUPATIONS

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

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

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

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

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

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

APPENDIX E - DETAILED PERFORMANCE STANDARDS FOR BUFFERING

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

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

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

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

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

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

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

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

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

Maintenance. Perpetual maintenance of required buffers is required.

TABLE F.1 - BUFFERING REQUIREMENTS

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

Higher Density Residential	Lower Density Residential, Platted Residential Lots	20	.80:1	For Parking	No
Residential	Visually Sensitive Area	20	None	None	No

**APPENDIX F - DETAILED PERFORMANCE STANDARDS FOR
THE DESIGN AND CONSTRUCTION OF ROADS**

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

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

Division 1 - Street Design

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

TABLE G.1 - LOCAL ROAD STANDARDS

SLOPE	UNITS SERVED	MINIMUM RIGHT-OF-WAY WIDTH	MINIMUM SURFACE WIDTH	MAXIMUM cul-de-sac LENGTH
0-8%	>16	60 Feet	24 Feet	660 Feet
0-8%	<16	60 Feet	24 Feet, 16 Feet One Way	880 Feet
8-15%	>16	50 Feet	24 Feet Two-Way, 16 Feet One Way	660 Feet
8-15%	<16	50 Feet	16 Feet with Pull-outs, Every 400 Feet	880 Feet
>15%	ANY NUMBER CONSTRUCTION DISCOURAGED	50 Feet	14 Feet, with Pull-outs every 400 Feet	660 Feet

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

Right-of-Way Treatment. The entire required right-of-way should not be cleared. Grading should be confined to the minimum area necessary for construction of a properly

drained road surface. Where a road passes through brush vegetation that creates a wildfire hazard, the entire right-of-way shall be treated as a fuel reduction area where brush is thinned to a density where crowns do not overlay or touch and ladder fuels are removed. Construction slash shall be removed from the right-of-way along with other fuels.

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

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

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

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

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

Division 2- Intersection Design

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

1. At intersections: The clear vision triangle includes the area defined by extending a line between two points, one on each lot line paralleling the road, each of which is 30 feet from the lot corner at the intersection; and
2. At other points of access: The clear vision triangle includes the area defined by extending a line between two points, one on the lot line paralleling the road

and one on the outer edge of the driveway, each of which is 15 feet from the point where the driveway crosses the lot line.

3. No solid fence or wall, planter, hedge, shrub, or other visual obstruction more than three feet in height above the grade of the adjoining roads shall be permitted within a clear vision triangle.

4. No parking shall be permitted in a clear vision triangle.

5. Trees shall be permitted in clear vision triangles, but only if all branches are removed to a height of at least seven feet above grade.

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

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

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

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

Division 3 - Additional Standards

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

1. All bridges and culverts on natural watercourses shall be designed to pass a 100 year flood without damage to the bridge OT (overtopping) or its approaches, without diverting floodwater onto neighboring properties, and without increasing the level of the base flood downstream.

2. The developer may be required to install a bridge rather than a culvert on any natural watercourse where such action is required, on the advice of the Idaho Fish and Game Department, to protect the fishery.
3. Culverts shall be designed to pass the runoff from the 10 year, 6 hour storm.
4. All culverts and bridges shall be designed to support a minimum gross vehicle load of 40,000 pounds.
5. There shall be a minimum 50 foot, 90 degree approach to all bridges.

APPENDIX G - DETAILED PERFORMANCE STANDARDS FOR THE PLATTING OF LOT SPLITS AND SUBDIVISIONS

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

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

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

Contents of Preliminary Plats. Preliminary plats shall include:

1. A title block showing the name of the proposed subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number of the engineer or land surveyor who prepared the preliminary plat.
3. A north point and both graphic and written scales.
4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision; and the boundaries of and recorded names of all adjacent or nearby subdivisions.
5. The location, nature, and boundaries of all existing public ways and public or private easements in or adjacent to the proposed subdivision, including the county book and page number references to the instruments establishing those ways or easements.
6. The location and size of all existing utility lines in or adjacent to the proposed subdivision.

7. The exterior boundaries of the proposed subdivision.
8. The location, exterior dimensions, and number of proposed lots and blocks or other parcels created by the subdivision.
9. The acreage of each proposed lot and a table showing the total acreage of the area proposed for subdivision, the total acreage in lots, the total acreage in streets, and the total acreage of parcels proposed for dedication to public use or to be held in common by the lot owners.
10. The names of all proposed streets and widths and boundaries of all proposed street rights-of-way and utility easements.
11. The location of all irrigation structures, watercourses, and wetlands within or adjacent to the proposed subdivision.
12. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance.
13. Any other information required by this ordinance.

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

FINAL PLATS

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

1. A title block showing the name of the subdivision and its location by quarter-quarter section, section, township, range, principal meridian, city, county, and state.
2. The name, address, and registration number or seal of the engineer or land surveyor who prepared the plat and that person's certification that the plat is

accurate and that the monuments described in it have been located and/or established as described.

3. A north point and both graphic and written scales.
4. A vicinity map that locates the proposed subdivision within the section and shows major roads and watercourses adjacent to or near the subdivision; and the boundaries of and recorded names of all adjacent or nearby subdivisions.
5. The point of beginning for the subdivision survey, which shall be a section or quarter section corner.
6. The location and a description of all existing monuments found during the course of the survey.
7. The location, nature, and boundaries, with bearings and distances, of all existing public ways and public or private easements in or adjacent to the subdivision, including the county book and page number references of the instruments establishing those ways or easements.
8. The exterior boundaries of the subdivision, with all bearings and distances, including curve data for curving boundaries;
9. The location, exterior dimensions, and number of all lots and blocks, or other parcels created by the subdivision, including bearings and distances and curve data for curving boundaries.
10. The location and a description of all monuments established during the course of the survey.
11. The location of any floodplain and floodway boundaries, as established by the Federal Emergency Management Agency, and any stream corridor setback lines established by this ordinance;
 - A. The acreage of each lot and a table showing the total acreage of the subdivided area, the total acreage in lots, the total acreage in streets, and the total acreage of any parcels dedicated to public use or held in common by the lots' owners;
12. The names of all streets and widths and boundaries of all street rights-of-way and utility easements, including bearings and distances and curve data for curving boundaries;

13. A signed and dated owner's certificate which includes a complete legal description of the parcel being subdivided, and in which the owners of record dedicate all public ways and other public spaces to public use.
14. A public notary's acknowledgment of the owner's certificate.
15. A signed and dated certificate of consent in which all mortgagors, lienholders, and other parties with any real property interest, including the holders of mineral rights, in the property consent to its subdivision.
16. A public notary's acknowledgment of the certificate of consent.
17. A certificate for signature by the county treasurer stating that all real property taxes due on the land being subdivided have been paid.
18. Certificates for plat approval by the commission and board.
19. A statement of "sanitary restriction", as required by I.C. 50-1326.
20. A certificate for use by the county recorder in recording the plat after its approval.
21. Any other information required for compliance with this ordinance.

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

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

APPENDIX H - RESOURCE MANAGEMENT AGREEMENT

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

Resource Management Agreement.

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

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

1. The Grantors, their heirs, successors, and assigns acknowledge by the granting of this agreement that the above described property is situated in an agricultural area and may be subjected to conditions resulting from commercial agricultural operations on adjacent lands. Such operations include the cultivation, harvesting, and storage of crops and livestock raising and the application of chemicals, operation of machinery, application of irrigation water, and other accepted and customary agricultural activities conducted in accordance with federal and state laws. These activities ordinarily and necessarily produce noise, dust, smoke, and other conditions that may conflict with Grantor’s use of Grantors property for residential purposes. Grantors recognize that all roadways in Oneida County may serve as trails for the movement of cattle and that the only protection from intrusion is a well maintained fence including gates and/or cattle guards. Grantors hereby waive all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent lands which may conflict with Grantors’ use of Grantors’ property for residential purposes and grantors hereby grant an agreement to adjacent property owners for such activities.
2. Nothing in this agreement shall grant a right to adjacent property owners for ingress or egress upon or across the described property. Nothing in this agreement shall prohibit or otherwise restrict the Grantors from enforcing or seeking enforcement of statutes or regulations of governmental agencies for activities conducted on adjacent properties.

This agreement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors, and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors, and assigns. The adjacent

landowners, their heirs, successors, and assigns are hereby expressly granted the right of third party enforcement of this agreement.

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

(Signature), Grantor

State of Idaho
County of Oneida

This instrument was acknowledged before me on (date) by (grantors)
(signature), Notary Public, My Commission Expires (date)

APPENDIX I - MODEL HEARING NOTICES

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

Notice for Class II Permit Application Hearing.

PUBLIC HEARING NOTICE - CLASS II PERMIT

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

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

Notice of Variance Hearing

PUBLIC HEARING NOTICE - VARIANCE

John and Jane Doe of P.O. 00, Malad, Idaho 83252 have applied for a variance of Section XX of the Oneida County Development Code. This proposed variance would permit a 12 foot encroachment in the required steam corridor setback along Blue Creek. This proposed encroachment would permit construction of a deck attached to the house located on Lot 6 of the Blue Creek subdivision. The property is located on the east side of Pine Drive, .03 miles from the intersection of Henderson and Highway 60.

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

APPENDIX J - ORDINANCE FOR BUILDING CODE ADOPTION

Section 1. Building Code Adoption

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

Section 2: Building and Zoning Permit Required

A. Residential Building Permit

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

B. Agricultural Farm Building

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

C. Commercial Operations/Development Permit.

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

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

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

Section 3: Permits Fees

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

Section 4: Penalty and Violation

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

Section 5: Permit Revocation

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

Any revocation may be appealed to the County Commissioners within thirty (30) days from the date notice of revocation is given to permittee.

Section 6: Failure to Obtain a Permit

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

APPENDIX K- DETAILED PERFORMANCE STANDARDS FOR GRAVEL MINING

1. **Purpose.** The purpose of this appendix is to provide reasonable assurance that future gravel mining operations will not adversely affect neighboring uses.
2. **Permit.** No gravel mine will be permitted within 600 feet of an existing residence or a platted residential subdivision.
3. **Road Capacity.** No gravel mining shall be permitted where existing roads and/or bridges do not have adequate capacity to support the anticipated truck traffic.
4. **Buffer Required.** A buffer area of at least 50 feet wide shall be provided between all operating areas of the mine, including parking, storage, etc., and the property line. No existing vegetation that has buffering capacity shall be removed from a required buffer.
5. **Operating Hours.** Wherever a proposed gravel mine is within 600 feet of an existing residence or a platted residential subdivision, mining operations shall be limited to the daylight hours. The noise level at the property line shall be limited to 70dBA.
6. **Groundwater Protection.** No gravel mine shall penetrate an aquifer. A variance of this performance standard may be considered, but only where a professionally-prepared plan for the prevention of aquifer pollution is implemented. Any such plan shall, at a minimum, require the diversion of surface runoff from the excavation, the installation and maintenance of vegetative filter strips around the excavation, and the minimization of the area of aquifer surface exposed at any one time.
7. **Reclamation.** The reclamation plan (reclamation plans are required by I.C. 47-1501., et.seq.) for the gravel mine shall show how the site will be reclaimed to a condition where it can be used for a compatible use. Reclamation that fulfills the requirements of state law shall generally be acceptable outside areas of city impact. In those areas of city impact where there is a comprehensive plan, the reclaimed site shall be suitable for a use permitted by that plan.

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

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

Commercial Operations/Development Management Agreement.

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

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

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

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

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

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

(Signature) Grantor

State of Idaho
County of Oneida

This instrument was acknowledged by me on _____ (date) by
(signature) Notary Public, My Commission Expires (date).

APPENDIX N

SUBDIVISION AGREEMENT

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

WITNESSETH

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

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

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

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

1. County does hereby approve the subdivision identified on Exhibit A attached hereto, and does authorize the appropriate officers of Oneida County to sign the subdivision plat, showing their approval of the said subdivision plat.

2. Subdivider represents to County that the improvements contemplated in the subdivision, as evidenced in the plans and specifications submitted with this contract and made a part of this contract by reference, are in full compliance with the County subdivision ordinances. Subdivider agrees to install at his/her own cost as of the improvements identified in the plans and specifications, which are incorporated herein as a part of this agreement, and to have the said improvements installed within 18 months from the date of this agreement. All work shall be completed in a workmanlike manner and shall conform to the Oneida County Development Code, Appendix F. In addition, the sanitary sewer and water systems shall be in accordance with the specifications and requirements of the Health Authority. It is expressly understood and agreed that nothing in this agreement shall limit the responsibility of the Subdivider to comply with all laws, ordinances, rules of regulations of Oneida County.

3. All work, as it is completed within the subdivision, shall be inspected by the Oneida County Building Inspector. As the entire subdivision is completed, the County Building Inspector will inspect the entire subdivision and certify to the Board that the subdivision is complete.

4. In accordance with the requirements of _____ of the Oneida County Development Code relating to platting and recording of subdivisions in the unincorporated area of the county, Subdivider shall furnish to Oneida County, upon execution of this agreement, a bond, cash deposit, irrevocable letter of credit or escrow arrangement in the amount of _____ dollars. The said sum represents at least 125% of the engineer's estimate of the cost of the improvement contemplated within the subdivision. The bond, irrevocable letter of credit, cash or other surety shall remain in effect until one year after the County Building Inspector certifies to the Board that the subdivision has been completed. Notwithstanding the foregoing, the bond, cash, irrevocable letter of credit or other surety may be reduced by the cost of any improvements as they are completed upon review and approval by the County Building Inspector. In no event, however, shall the bond, cash, irrevocable letter of credit or other surety be reduced below 25% of the amount of the bond.

5. Subdivider hereby warrants and guarantees that the improvements contemplated herein and any part thereof will remain in good condition for a period of one year after the date the County Building Inspector certifies to the Board that the subdivision is complete, and Subdivider agrees to make all repairs to and maintain the improvements and every part thereof in good condition during the one year period with no costs to the County.

6. In the event the subdivision is not completed within two years from the date of this agreement, County shall be entitled to as much of the bond, cash, irrevocable letter of credit or other surety needed to complete the improvements set forth in the plans and specifications included as a part of this agreement, which have not been completed. It is understood and agreed that this paragraph does not obligate County to complete the subdivision, but does authorize County to use the money held as security for performance of this contract to complete the improvements.

7. At any time during this agreement or the one year guarantee period, should any of the improvements contemplated by the plans and specifications, which are a part of this agreement, be in need of repair or be in any way defective, County shall notify Subdivider of the needed repairs or the defects, and Subdivider shall correct the defects or make the repairs within sixty (60) days from the date of the notice. In the event Subdivider fails to make the needed repairs or correct the defects, County shall be able to look to the bond, cash, irrevocable letter of credit or other security for the money needed to make the repairs or correct the defects.

8. Time is of the essence in this agreement.

9. This agreement is binding upon the heirs, administrators and assign of the parties.

10. In the event Subdivider defaults in any of the terms or conditions of this agreement, Subdivider agrees to pay all costs of enforcing this agreement, including, but not limited to, a reasonable attorney fees, whether or not the matter is finally resolved by litigation.

WHEREFORE, the parties hereto have signed this agreement the day and year first written.

BOARD OF COMMISSIONERS, ONEIDA COUNTY, IDAHO

Chairman

ATTEST:

Oneida County Clerk

Subdivider

Subdivider

APPENDIX O

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

ESCROW AGREEMENT

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

WITNESSETH:

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

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

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

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

1. Subdivider does hereby deposit with Escrow Agent for the benefit of County the sum of _____, which represents at least 125% of the estimated costs of the improvements to be installed in the proposed subdivision of Subdivider, his agents or employees.

2. Subdivider and County hereby agree that the foregoing sums of money shall be used exclusively for the purpose of paying for the costs of materials, and construction and installation of the improvements required by the Oneida County Development Code and

that said improvements shall be installed in accordance with the approved plans and specifications and in accordance with the provisions of the Oneida County Development Code. In addition, County and Subdivider further agree that the money held by Escrow Agent shall be paid out to the contractor installing and constructing the required improvements only upon an Order executed by the Subdivider and by an authorized officer of County.

3. Except as provided in paragraph 7 of this Agreement, Escrow Agent does hereby agree to pay sums from the escrowed funds only after having received an order signed by the Subdivider and by an authorized office of the County specifying the amount to be paid out of the Escrow Account.

4. County and Subdivider agree that Subdivider shall not withdraw from the Escrow Account any amount in excess of 100% of the estimated costs of the improvements, but Subdivider agrees to pay from other sources any costs for such improvements which exceed 100% of the estimated costs.

5. The sum of 25% of the estimated costs of improvements shall remain with the Escrow Agent for a period of one year after improvements are made and completed. If, during that one year period, the territory containing the subdivision is annexed by a municipality, Oneida County reserves the right to assign its interest in this agreement to the municipality.

6. If after 18 months from the date of final subdivision approval, all or any part of the required improvements have not been installed, constructed, and maintained according to the standards required by the Oneida County Development Code, County shall notify in writing the Subdivider and the Escrow Agent of the improvements that have not been installed, constructed, or maintained, and shall make demand on Subdivider that the improvements be installed constructed, or maintained. If the improvements are not installed, constructed, and maintained within thirty (30) days after notice by County, County may install, construct, or maintain the improvements and receive payment from the Escrow Agent up to the limit of the escrowed funds for the costs of installing, constructing, or maintaining the required improvements.

7. The Escrow Agent shall, on receiving written proof from the County of notice of Subdivider as required by paragraph 6 above and reasonable proof of the installation, construction, or maintenance of the required improvements, pay to County from the Escrow Account the cost of constructing, installing, or maintaining the improvements; and upon payment Escrow Agent shall be relieved from any responsibility or liability for the payment of his escrowed funds.

8. If, after one year after the improvements have been installed by Subdivider, the required improvements have been maintained and remain substantially free from latent defects, County shall certify such fact to the Escrow Agent, and the Escrow Agent shall release to Subdivider any funds still held in the Escrow Account, and the Escrow Agent shall be discharged from its obligation to County and to Subdivider.

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

ONEIDA COUNTY BY:

Chairman

Commissioner

Commissioner

ATTEST:

Oneida County Clerk

Subdivider BY:

ESCROW AGENT BY:

Approved as to Form:

Oneida County Attorney

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

Name of Bank
Address

IRREVOCABLE LETTER OF CREDIT

To: Oneida County Board of Commissioners
Credit No.:

Date:
Letter of:

Gentlemen:

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

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

Authorized Bank Officer

C. Bond:

1. The Subdivider shall furnish and file with the planning and zoning department a bond with corporate surety in an amount equal to one hundred twenty-five (125%) of the cost of the improvements not previously installed, as estimated by the engineer, to assure installation and construction of such improvements within eighteen (18) months, immediately following the approval of the subdivision plat by the board, which bond shall be approved by the board and attorney and which bond shall guarantee that the improvements shall be maintained in a state of good repair, free from material or workmanship defects, for a period of twelve (12) months from the date of completion. After twelve (12) months following the completion of the improvements for which a surety or cash bond has been filed, the Subdivider shall call for inspection by the administrator. If inspection shows that the standards and specifications have been met in completion of such improvements, the bonds therefore shall be released within fourteen (14) days from the time of inspection.

2. Such surety or bond shall remain in force for a period of twelve (12) months after the construction completion inspection for the purpose of guaranteeing all improvements, at which time they shall be inspected again by the administrator. If the improvements are found to be in satisfactory, the administrator will release the bond. If the improvements are not found to be satisfactory condition, the administrator shall in writing make demand on Subdivider to make repairs. If repairs are not made within thirty (30) days of date of letter, bond shall be forfeited to County.

DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commission. The Oneida County Planning and Zoning Commission.

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

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

County. Refers to Oneida County, Idaho.

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

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

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

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

FEMA. Federal Emergency Management Agency.

FSA. Farm Service Agency.

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

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

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

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

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

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

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

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

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

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

Industrial. Areas available for light to heavy industrial business.

Land Actively Devoted to Agriculture. (1) Land which is actively devoted to agriculture shall be eligible for appraisal, assessment and taxation as agricultural property each year it meets one or more of the following qualifications:

- a. The total area of such land, including the homesite, is more than five (5) contiguous acres, and is actively devoted to agriculture which means:
 - i. It is used to produce field crops, including, but not limited to, grains, feed crops, fruits, and vegetables; or
 - ii. 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; or
 - iii. It is in a crop-land retirement or rotation program.
 - b. The area of such land is five (5) acres or less and such land has been actively devoted to agriculture during the last three (3) growing seasons; and
 - i. It agriculturally produces for sale or home consumption the equivalent of fifteen percent (15%) or more of the owners' or lessees' annual gross income; or
 - ii. It agriculturally produced gross revenues in the immediately preceding year of one thousand dollars (\$1,000) or more. When the area of land is five (5) acres or less, such land shall be presumed to be nonagricultural land until it is established that the requirements of this definition have been met.
- (2) Land shall not be classified or valued as agricultural land which is part of a platted subdivision with stated restrictions prohibiting its use for agricultural purposes.
- (3) Land utilized for the grazing of a horse or other animals kept primarily for personal use or pleasure rather than as part of a bona fide profit making agricultural enterprise shall not be considered to be land which is actively devoted to agriculture.

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

Large Scale Development. See Chapter 5 pg. 34.

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

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

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

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

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

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

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

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

Monopole: A telecommunication tower of a single pole design.

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

New Construction. Buildings for which the “start of construction” was on or after the effective date of this ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sketch Plan. A sketch plan is a general or conceptual site plan of a development. It must include the approximate location of all lot lines and streets; the approximate location and exterior dimensions all structures; the approximate location, size, and circulation pattern of all parking areas; and the approximate location and dimensions of all landscaped buffers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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