

TITLE XV: LAND USAGE

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CHAPTER 150: COMPREHENSIVE PLAN

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▸ 150.01 COMPREHENSIVE PLAN ADOPTED.

The Town Council adopts the 1997 Master Plan and the newly revised map which is the *Zoning and Land Use Map* dated 12-16-97 by Crown Engineering Incorporated, Portage, Indiana, as the Comprehensive Plan of the Town of Ogden Dunes, Indiana.

(99 Code, § 10-1) (Res. 98-02, passed 3-2-98)

▸ 150.02 INTRODUCTION OF THE PLAN.

(A) The Town of Ogden Dunes is a residential community of about 1,500 population located in the Indiana Dunes region on the southern shore of Lake Michigan. The town occupies an area of slightly less than one square mile, bounded on the north by the lake, on the east and west by portions of the Indiana Dunes National Lakeshore Park, and on the south by the park and the City of Portage, all in Portage Township, Porter County, Indiana.

(B) The topography is typical of the shoreline between Gary and Michigan City, consisting of sandy beaches and sand dunes, ridges and wooded valleys inland. Developed areas are now mostly covered with

natural and planted vegetation, lawns or other ground cover, paved streets and driveways, houses, accessory buildings, and a variety of landscaping and retaining walls. The numerous park areas are

densely wooded or remain open with natural vegetation, except those used for recreation. The land is mostly dry, except for one inland pond, Polliwog Pond, and marshy areas near Long Lake in the westerly section. The town=s corporate boundaries also include portions of the adjacent National Lakeshore Park, in the northwesterly and southerly sections, which remain in their natural state.

(^99 Code, ' 10-2) (Res. 98-02, passed 3-2-98)

' 150.03 EARLY DEVELOPMENT.

(A) The community began formal development in 1923 when Samuel Reek, as principal owner of a real estate corporation formed to develop and sell lots on land acquired from the Francis Ogden estate, platted the initial subdivisions with Joseph Boo and Colin Mackenzie. The land was unsettled except for a few summer cottages along the lakeshore, with an unimproved road or wagon trail to and along a short stretch of beach. Inland, a set of tire tracks led west toward Long Lake and east toward the newly-opened Bums Ditch, both lying outside the future town=s limits. At the same time the principal access road, the Dunes Highway, U.S. Route 12, was being built. The area was also accessed by rail, the Chicago, South Shore and South Bend Railroad, with a flag stop first known as Wyckliffe, and later by limited commuter service on the New York Central Railroad (discontinued in 1954). The townsite was bisected by the Indiana Harbor Belt Railroad double-track freight line from the Dune Park yard east of Bums Ditch westward. The ASand Tracks@ had been used as well to haul out sand from earlier mining operations, and later to bring in snow needed for ski jump competition in the present Kratz Field Park. Freight service was discontinued and the remaining track finally removed in the early 1960s.

(B) Ogden Dunes was incorporated as a town in August of 1925. Access from the highway to the new town site across the railroad tracks was achieved in early 1926, and extended to the lots being sold by construction of barely passable roads. Development occurred gradually, at first near the lake and on higher dunes with a lake view, while permanent residents were being added to the summer population.

(C) Following Mr. Reck=s retirement, his son, Nelson, directed the development and sale of property for the next 40 years through his companies, Ogden Dunes, Incorporated, and Ogden Dunes Realty Company, respectively. Rapid development after World War II resulted in a 1950 census of 429, which then nearly doubled in the next decade. The town had 335 homes recorded in the 1957 Master Plan. By 1970, the population had increased to 1,370, when the original and five more subdivisions had been platted, the latest being the third and fifth. Upon Nelson Reck=s retirement in 1969, the remaining unsubdivided parcels were conveyed to the University of Chicago. Two parcels were sold by the University to be developed as the sixth and seventh subdivisions; another south of the Highway was sold for future development and two parcels north of the railroad tracks and east of Hillcrest Road were acquired by the town for park and public service purposes.

(D) In 1977 part of the sixth subdivision was included in the National Lakeshore Park, requiring abandonment of its partially developed northern portion. In 1996 the National Lakeshore acquired the parcel south of the Highway as well, virtually surrounding the town by the lake and park land, except for the commercially zoned strip south of the Highway, bounded on the south and east by the City of Portage. (^99 Code, ' 10-3) (Res. 98-02, passed 3-2-98)

• **150.04 PURPOSE AND HISTORY OF PLANNING.**

(A) The Ogden Dunes Town Plan Commission was formed in 1953 to take over from the developers the responsibility for planning, zoning, and subdivision control, as authorized by the State of Indiana Planning Act of 1947, for the stated purpose, Ato promote the orderly development of its governmental units and its environs.@ As further provided by statute, the initial Master Plan was prepared by the Plan Commission and adopted in 1957, its purpose being:

Ato assure the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of development.@

(B) The 1957 Plan, together with the first zoning and subdivision control ordinances, contains extensive early historical and land use data, with illustrations, maps and exhibits for the region, emphasizing the town=s asserted jurisdiction over the then unincorporated contiguous area of two miles beyond its corporate limits. In 1959, however, with the proposed industrial development east of Ogden Dunes, the town (now City) of Portage was incorporated to include this entire contiguous area, thus reducing the town=s jurisdiction for planning and zoning to its corporate limits.

(C) In 1969 a revised Master Plan, together with ordinances for zoning (No. 403) and subdivision control (No. 402) were prepared by the Plan Commission, with assistance from the State Department of Commerce. This plan and accompanying ordinances include specific information and regulations relevant to the rapid increase in new residences and the needs of a growing population Also affected would be the imminent development of the as yet unplatted sixth subdivision and the undivided Lot 300 at the summit of AMount Everest,@ as well as numerous open building sites in the fifth and older subdivisions. Concurrently, building regulations were being enacted, and the Building Code of 1979 was later superseded by a more comprehensive code (No.558), enacted in 1990.
(^99 Code, ' 10-4) (Res. 98-02, passed 3-2-98)

• **150.05 RELATED LEGISLATION.**

Pursuant to I.C. 36-7-4-500, this Master Plan is prepared for the Plan Commission, in conjunction with a comprehensive review of all three related ordinances noted above, by a special Review Committee appointed by the Town Council. The result is a single new ordinance, encompassing information and regulations for all aspects of zoning and building, including permits, fees and procedures, while amending and incorporating by reference the existing subdivision control ordinance (No. 402). Upon adoption by the Plan Commission and enactment by the Town Council, this plan and ordinance supersede the previous plans and all prior related ordinances. A newly revised zoning and land use map accompanies this

documents and is set forth in this title.

(99 Code, ' 10-5) (Res. 98-02, passed 3-2-98)

Cross-reference:

Zoning and Land Use Map, see Appendix following this chapter

150.06 PRESENT LAND USE AND PERTINENT DATA.

(A) By far the largest portion of the town's land, about 70%, is devoted to residential use. Parks, including recreational and public service areas, constitute roughly one quarter of the total, with the remainder of about 5% in two parcels for commercial and public water utility use, respectively. With very few residential building sites still available, Ogden Dunes is now virtually developed as a mature, residential community.

(B) As of July 1997, there were approximately 622 single-family residences, an increase of about 12 since 1990. These range in value from under \$100,000 to roughly \$2,000,000. For the town of Ogden Dunes, the total assessed valuation is now \$23.7 million. The 1997 tax rate is \$2.0673 per \$100 of assessed valuation, and the town budget is \$523,000.

(C) In addition to residential structures and accessory buildings, others include the police station (being rebuilt in 1997), volunteer fire department garage and meeting hall, community church (Presbyterian), municipal garage and service building, water pumping station, and commercial structures south of the Dunes Highway, including a combined gasoline service station and convenience store. Also located within the town limits are a water intake structure and commercial filtration plant.

(D) Areas of the town designated for parks, recreation and preservation are owned by the Ogden Dunes Home Association, a membership organization, or the Ogden Dunes Park Board, a governmental unit. The Ogden Dunes Beach is designated as a public walking beach by agreement with the National Lakeshore, and is used by town residents via accessways owned by the Home Association. Recreational facilities are specifically provided in four major park areas: tennis courts and playground equipment in Nelson Reck Park, tennis courts in Long Lake Park, soccer, baseball and basketball facilities in Kratz Memorial Field and hiking areas on the Sand Tracks Walking Trail (see map).

(E) Since the 1969 Master Plan, which reported some 45 acres set aside for open space, including beach and parks, or 15% of the then developed land, numerous large and small parcels have been acquired and set aside. Now, with more developed land, the total park acreage is conservatively estimated to have doubled since 1969, even considering the concurrent reduction of beach area through shoreline erosion. Added to available town park areas are the adjacent National Lakeshore Park lands, to the east, west and south of the town boundaries.

(99 Code, 10-6) (Res. 98-02, passed 3-2-98)

150.07 BEACH EROSION.

(A) Lakeward projections by the steel companies and the Port of Indiana east of Burns Waterway, which began in the 1960s, have seriously eroded all of the Ogden Dunes shoreline and virtually eliminated the formerly wide beach along the eastern side of the town. In spite of settled litigation and sporadic efforts to replenish the beach, the damage has progressed and the entire shoreline is vulnerable to severe lake storms.

(B) The beach and dunes have always been the prime resources of this unique community. Although careful planning and development have minimized the impact of residential growth, the beach erosion problem is having an adverse effect overall. All residents with lakeshore property on the east side of the town, and others along the shore, have been forced to construct costly sea walls of steel piling and stone to protect their properties, while all residents and their guests must use the shrunken beach on the west side. The efforts of concerned residents as well as the town government, and the outcome of current additional litigation, will determine the longer range outlook for a satisfactory solution to this difficult problem.
(^99 Code, ' 10-7) (Res. 98-02, passed 3-2-98)

' 150.08 UTILITIES AND SERVICES.

(A) Electrical service is provided through overhead wire distribution in the older subdivisions and underground cable in the more recently developed areas by Northern Indiana Public Service Company of NIPSCO Industries. Natural gas is also provided by NIPSCO through underground piping. Telephone service is provided by Verizon. Cable service is provided by Comcast. Postal delivery and pickup service are provided daily by the Portage Post Office to residents= boxes in stations throughout the town. Other package pickup and delivery services are provided by private carriers. Garbage disposal is by private contractor selected by each resident, if approved to offer service in the town. Sewage disposal is by individual septic system.

(B) Municipal water service became available in 1962 with completion of the town=s pumping and water main distribution system. Water is purchased from the Northern Indiana Waterworks to all but ten residences currently with private wells.

(C) The town is protected by 24-hour emergency police and fire service, with the added benefit of reciprocal cooperative assistance on call from the City of Portage and the National Park Service. The Town Marshal and officers maintain patrol and surveillance of the streets, parks and beach areas. The Marshal=s staff maintains the town offices for the Marshal, Clerk-Treasurer, Waterworks Superintendent, and Building Commissioner and provides information services. The Ogden Dunes Volunteer Fire Department, established in 1948, is housed in the Department garage and provides fire protection with professionally trained resident volunteers and modern fire-fighting equipment. Fire hydrants connected to the water system are liberally located throughout the town.
(^99 Code, ' 10-8) (Res. 98-02, passed 3-2-98)

' 150.09 TRANSPORTATION.

(A) Within the town, paved and marked streets provide for both automobile and pedestrian traffic. Virtually all platted streets are improved with hard surface asphalt paving, mostly repaved in 1996. Other platted streets remaining unimproved have been converted to walking easements or town park land. Direct access and egress at Hillcrest Road are provided by U.S. Highway 12 (Dunes Highway), which

parallels the lakeshore and South Shore railroad line between Gary and Michigan City. Emergency access and egress are available, at the direction of the Town Marshal, by way of Boat Club Road and Midwest Steel or along the tracks eastward or westward to the next road crossing. From U.S. 12 and Indiana Route 249 southward other major east-west routes may be accessed within a few miles: Interstate Highways 80, 90 and 94, and U.S. Highways 20 and 6. The major route south from Gary, I-65, may be accessed by any of the east-west routes.

(B) Operated on the South Shore Railroad, the Northern Indiana Commuter Transportation District (NICTD) provides commuter rail transportation westward to Chicago and eastward to South Bend and intermediate stations. Patronage has increased in recent years to include a large amount from Portage as well as Ogden Dunes. A new Ogden Dunes station is being built along with additional parking, and double-tracking of the line is being constructed through the town. Increasing congestion on area expressways will probably continue to be reflected in more commuting by rail.

(C) In addition to land transport, town residents have ready access to Lake Michigan for mainly recreational purposes. Burns Waterway provides convenient launching and docking facilities, enhanced by a 200-slip public marina opened in 1996, located at U.S. 12 and Midwest Steel Highway. The closest airports for general aviation are Gary and Valparaiso. Limousines to Chicago's O'Hare and Midway airports for commercial flights are available at the junction of U.S. 20 and Ind. 249.

(^99 Code, ' 10-9) (Res. 98-02, passed 3-2-98)

' 150.10 POPULATION TRENDS.

The 1990 census lists the town's population at 1,499, or about 2.5 persons per dwelling. The probable increase of about 30 persons resulting from new building in the past seven years may have been partly offset by transfers and vacancies. Population growth in the town has thus slowed since the rapid increases of previous decades, when numerous vacant lots were available. In March of 1969, for example, the population was reported as 1,370, representing a 423 person increase over the 1960 census, or nearly 45%. At present, with an estimate of under 25 lots now available as possible building sites, the town's population within the next 20 years, would likely stabilize near 1,600.

(^99 Code, ' 10-10) (Res. 98-02, passed 3-2-98)

' 150.11 FUTURE DEVELOPMENT.

(A) The Town of Ogden Dunes may be expected to remain overwhelmingly residential, as presently zoned, with generous parkland and recreational areas and adequate town services being provided for its

residents. Accordingly, the objectives of this Master Plan for the town=s jurisdiction shall be to maintain the present zoning and land use through adequate controls over alterations, renovations and rebuilding, as well as any new building in the few remaining buildable sites, to preserve or enhance property values. It is essential also that any re-subdivision of existing properties similarly conform to the character and quality of surrounding development.

(B) The sections originally platted contain mostly lots of 8,000 square feet and smaller, located generally near the lake and in the northeast and central portions of the corporate area. The later subdivisions, beginning with the fourth and followed by the third and fifth, contain larger lots with some having 10,000 square feet and more. Finally, as prescribed in the 1969 ordinances, the sixth and seventh subdivisions were platted with lots of at least 15,000 square feet, reflecting the town=s efforts to provide for larger building sites with more open space. Over time, numerous acquisitions of adjoining properties have also resulted in more desirable building sites and/or open space by combining two or more smaller lots.

(C) It is clear that the town has aimed to encourage insofar as possible larger lots as building sites, and will continue this effort in the future. Nevertheless, the preponderance of smaller lots, originally platted at 10,000 square feet and under, has required numerous exceptions in dimension and setback requirements for construction of homes. Experience of the past 27 years, since the last subdivision control and zoning ordinances, and more recently since the last building code, has shown that enforcement reasonably aimed at more open space may actually be enhanced by prescribing a lower minimum lot size, of 10,000 square feet, and by setting a maximum percentage of lot area for building coverage on all lot sizes. Chapter 152 of this code includes these provisions.

(D) The single-family residential character of the town will surely be preserved. At the same time it should be noted that multiple-family units were proposed in the past, and even included in past zoning, but ultimately rejected by the town. It must be acknowledged, however, that the possibility exists for such development in neighboring areas of Portage, most likely southeast of the town boundaries near Burns Waterway. Hotels, motels and/or an entertainment complex could be developed as well, but their possible appearance on the scene, nevertheless, should not significantly effect the unique character of Ogden Dunes. Except for this contingency, the town=s boundaries abutting the National Lakeshore provide a natural greenbelt for this community.

(E) Any future development of public ways, public places and public lands will be minimal, with the objective of preserving the town=s parkland in its natural state, or permitting additional recreational facilities as needed. Public structures, police, fire and service buildings will be adequate for the foreseeable future. Public utilities are also adequate, but any replacement of overhead telephone, electrical or cable television service should be by underground construction. A municipal sewage disposal system, frequently considered in the past, remains desirable but too costly to be anticipated in the near future.

(F) Of particularly serious concern for the immediate and long-range future of property values, as well as this town=s unique and valuable recreational feature, must be the restoration and stabilization of the Ogden Dunes beach at the earliest possible time. Also frequently affected by the forces of nature are the sloping roads and driveways which occasionally involve rainwater runoff, collection and drainage problems

requiring attention periodically. Related land disturbance and slope stability requirements are particularly addressed in the Building Code section of Chapter 152 of this code.

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(G) In the nearly 75 years of its existence as a town, Ogden Dunes has consistently endeavored to maintain its unique character as a community of substantial, permanent, single-family residences. The town's planning and development throughout its history reflect as well its genuine respect for the surrounding natural environment. Instead of leveling the land for a typical suburb or subdivision, the dunes have been left largely intact, with roads following the contour of the land, and with lots large enough and so arranged as to permit where possible preservation of the dunes in their natural state. Accordingly, this development has made Ogden Dunes the unique community it is today. Its preservation will depend heavily on prohibiting incompatible development and vigorously enforcing the regulations encompassed by the Ordinance for Zoning, Building and Subdivision Control which is set forth in Chapter 152.

(H) Town officials and residents should work cooperatively to preserve the quality of life in Ogden Dunes and its surrounding region. By adopting this Master Plan of 1997, the town is committed to these objectives.

(^99 Code, ' 10-11) (Res. 98-02, passed 3-2-98)

APPENDIX: ZONING AND LAND USE MAP

The Zoning and Land Use Map is available at Town Hall.

CHAPTER 151: UNSAFE BUILDINGS

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-
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GENERAL PROVISIONS**' 151.01 ADOPTION OF STATE LAW.**

(A) The town adopts the Unsafe Building Law as set forth in I.C. 36-7-9-1, *et seq.* ('99 Code, ' 6-35)

(B) This chapter is intended to accomplish the adoption of the state unsafe building law, I.C. 36-7-9, in its entirety, by town ordinance pursuant to I.C. 36-7-9-3 and the language contained herein is intended to accomplish an incorporation by reference even though the language of the present state statute is set forth here. Should any conflict arise as to meaning and effect, nothing in this chapter shall be construed to conflict with state statute in existence at the time of being construed, as the state statutes are amended from time to time, and each and every provision of state statute shall govern and is expressly adopted by reference even though specific words have been set down in this chapter. ('99 Code, ' 6-63b)

(C) The town adopts I.C. 36-7-9 by the enactment of this chapter. This chapter specifies the Planning and Building Department as the executive department of the town responsible for the administration of this chapter. This chapter incorporates by reference the definition of "Substantial Property Interest" set forth by state law. ('99 Code, ' 6-37) (Ord. 652, passed 6-7-99)

' 151.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future, the singular shall include the plural.

CHAPTER. Ordinance 652, passed 6-7-99, as codified herein.

COMMISSIONER. The Building Commissioner for the Town of Ogden Dunes.

COUNCIL. The Town Council of the Town of Ogden Dunes, Porter County, Indiana.

DEPARTMENT. The Planning and Building Department of the town which shall administer this chapter.

ENFORCEMENT AUTHORITY. The Planning Commission of the town.

HEARING AUTHORITY. The Town Council or the person or persons designated as such by the Town Council. (By law, an employee of the enforcement authority may not be designated as the hearing authority).

ORDER. Any written directive issued by the town under this chapter.

PERSON. Any entity capable of holding an interest in real estate, including (by way of example and not of limitation) individuals and corporations.

SUBSTANTIAL PROPERTY INTEREST. Any right in real property that may be affected in a substantial way by actions authorized herein, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser.

TOWN. The Town of Ogden Dunes, Porter County, Indiana.

TOWN COUNCIL. The Town Council of the Town of Ogden Dunes, Porter County, Indiana.
(^99 Code, ' 6-36)

UNSAFE BUILDING. A building or structure, or any part of a building or structure, that is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;
- (5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
- (6) Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance.

UNSAFE PREMISES.

- (1) An unsafe building; and
 - (2) The tract of real property on which the unsafe building is located.
- (^99 Code, ' 6-38) (Ord. 652, passed 6-7-99)

▪ **151.03 LEGISLATIVE FINDINGS.**

The town adopts the legislative findings of I.C. 36-7-9-4.5:

(A) There exist a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

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(B) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(C) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(D) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(E) Many vacant structures are situated on narrow lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(F) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(G) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(H) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing and further contributing to the decline of the neighborhood.

(I) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.

(J) The general assembly finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisances.

(K) In recognition of the problems created in a community by vacant structures, the Indiana General Assembly has found that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local governmental bodies to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.

(¹⁹⁹⁹ Code, § 6-39) (Ord. 652, passed 6-7-99)

ORDERS AND ENFORCEMENT PROCEDURES

' 151.15 ORDERS.

(A) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) Vacating of an unsafe building;
- (2) Sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) Extermination of vermin in and about the unsafe premises;
- (4) Removal of trash, debris, or fire hazardous material in and about the unsafe premises;
- (5) Repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under I.C. 4-22-2, or any town ordinance;
- (6) Removal of part of an unsafe building;
- (7) Removal of an unsafe building; and
- (8) Requiring, for an unsafe building that will be sealed for a period of more than 90 days:
 - (a) Sealing against intrusion by unauthorized persons and the effects of weather;
 - (b) Exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - (c) Continuing maintenance and upkeep of the building and premises; in accordance with standards established by ordinance.

(B) Notice of the order must be given under ' 151.33. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is

issued.

(C) The order must contain:

(1) The name of the person to whom the order is issued;

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(2) The legal description or address of the unsafe premises that are the subject of the order;

(3) The action that the order requires;

(4) The period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) If a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) If a hearing is not required, a statement that an order under division (A)(2) (sealing a building), (A)(3) (extermination of vermin), or (A)(4) (removal of trash; debris or fire hazard) becomes final ten days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten-day period;

(7) A statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) A statement indicating the obligation created by ' 151.35 (transfer of property) relating to notification of subsequent interest holders and the enforcement authority; and

(9) The name, address, and telephone number of the enforcement authority.

(D) The order must allow a sufficient time, of at least ten days from the time when notice of the order is given, to accomplish the required action. If the order allows more than 30 days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within 30 days.

(E) The order expires two years from the day the notice of the order is given, unless one or more of the following events occurs within that two-year period:

(1) A compliant requesting judicial review is filed under ' 151.18;

(2) A contract for action required by the order is let at public bid under ' 151.21;

(3) A civil action is filed under ' 151.27.

(^99 Code, ' 6-40) (Ord. 652, passed 6-7-99)

▪ **151.16 MODIFICATION OR RECISSION OF ORDERS.**

(A) The enforcement authority may issue an order that modifies the order previously issued.

(B) The enforcement authority may rescind an order previously issued, even if the order has been affirmed by the hearing authority.

(^99 Code, ' 6-41) (Ord. 652, passed 6-7-99)

' 151.17 HEARING, PERFORMANCE BONDS; RECORD OF FINDINGS.

(A) A hearing must be held relative to each order of the enforcement authority, except for an order issued under ' 151.15(A)(2) (sealing a building), ' 151.15(A)(3) (extermination of vermin) or ' 151.15(A)(4) (removal of trash, debris or fire hazard). An order issued under ' 151.15(A)(2), (3), or (4) of this chapter becomes final ten days after notice is given, unless a hearing is requested before the ten-day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(B) The hearing shall be held on a business day no earlier than ten days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five days after notice is given, to continue the hearing to a business day not later than 14 days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five days before the continued hearing date, in the manner prescribed by ' 151.33 (manner of serving notice). If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under ' 151.33 by a method other than publication.

(C) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(D) (1) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

(a) Affirm the order;

(b) Rescind the order; or

(c) Modify the order, but unless the person to whom the order was issued, or counsel for that

person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

(2) In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty

in an amount not to exceed \$1,000. The effective date of the civil penalty may be postponed for a reasonable period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under ' 151.18 or enforcement of an order under ' 151.27 (civil actions), action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(E) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(F) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with I.C. 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under division (E).

(G) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(H) A civil penalty under division (D) may be collected in the same manner as costs under ' 151.23 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund. ('99 Code, ' 6-42) (Ord. 652, passed 6-7-99)

' 151.18 APPEALS.

(A) An action taken under ' 151.17(D) of this chapter is subject to review by the Circuit or Superior Court of Porter County, on request of:

- (1) Any person who has a substantial property interest in the unsafe premises; or
- (2) Any person to whom that order was issued.

(B) A person requesting judicial review under this section must file a verified complaint including the

findings of fact and the action taken by the hearing authority. The complaint must be filed within ten days after the date when the action was taken.

(C) An appeal under this section is an action de novo. The court may affirm, modify, or reverse the action taken by the hearing authority.

(^99 Code, ' 6-43) (Ord. 652, passed 6-7-99)

' 151.19 EMERGENCY ACTION.

(A) If the enforcement authority finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety, or property, it may take that action without issuing an order or giving notice. However, this emergency action must be limited to removing any immediate danger.

(B) The department, acting through the enforcement authority, may recover the costs incurred by the enforcement authority in taking emergency action, by filing a civil action in the circuit court or superior court of the county against the persons who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises at the time the enforcement authority found it necessary to take emergency action. The department is not liable for the costs of this civil action.

(C) If an unsafe premises poses an immediate danger to the life or safety of persons occupying or using nearby property, the enforcement authority may, without following this chapter=s requirements for issuing an order and giving notice, take emergency action to require persons to vacate and not use the nearby property until the danger has passed. However, any person required to vacate an unsafe premises under this division may challenge in an emergency court proceeding the enforcement authority=s determination that the premises poses an immediate danger to the life or safety of any person. In an emergency court proceeding, the enforcement authority has the burden of proving that emergency action is necessary to protect from immediate danger the life or safety of persons occupying or using nearby property.

(^99 Code, ' 6-44) (Ord. 652, passed 6-7-99)

' 151.20 ACTION TO ENFORCE ORDERS.

(A) The enforcement authority may cause the action required by an order issued under ' 151.15(A)(2) (sealing a building), ' 151.15(A)(3) (extermination of vermin), or ' 151.15(A)(4) (removal of trash, debris or fire hazard) to be performed by a contractor if:

(1) The order has been served, in the manner prescribed by ' 151.33 on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises that are the subject of the order;

(2) The order has not been complied with;

(3) A hearing was not requested under ' 151.15 of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and

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(4) The order is not being reviewed under ' 151.18 of this chapter.

(B) The enforcement authority may cause the action required by an order, other than an order under ' 151.15(A)(2), ' 151.15(A)(3), or ' 151.15(A)(4) of this chapter, to be performed if:

(1) Service of an order, in the manner prescribed by ' 151.33, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;

(2) The order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;

(3) The order, as affirmed or modified at the hearing, has not been complied with; and

(4) The order is not being reviewed under ' 151.18 of this chapter.

(C) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that the enforcement authority intends to perform the work by publication, unless the authority has received information in writing that enables it to make service under ' 151.33 of this chapter by a method other than publication.

(^99 Code, ' 6-45) (Ord. 652, passed 6-7-99)

' 151.21 PERFORMANCE OF WORK REQUIRED BY ORDERS; PROCEDURES.

(A) The work required by an order of the enforcement authority may be performed in the following manner:

(1) If the work is being performed under an order other than an order under ' 151.15(A)(4) of this chapter, and if the cost of this work is estimated to be less than \$10,000, the department, acting through the unit=s enforcement authority or other agent, may perform the work by means of the town=s own workers and equipment owned or leased by the town. Notice that this work is to be performed must be given to all persons with a substantial property interest, in the manner prescribed in division (C) below, at least ten days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under ' 151.15(A)(4) of this chapter, and if the estimated cost of this work is \$10,000 or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by ' 151.22 is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under ' 151.15(A)(2) (sealing a building), ' 151.15(A)(3) (extermination of vermin), or ' 151.15(A)(4) (removal of trash, debris or fire hazard) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the town=s enforcement authority or other governmental agency and using the town=s own workers and or leased by the unit. Work performed under an order issued under ' 151.15(A)(2), may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by ' 151.22.

(B) Bids may be solicited and accepted for work on more than one property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by ' 151.22(a)(1) of this chapter.

(C) All persons who have a substantial property interest in the unsafe premises and are subject to an order other than an order under ' 151.15(A)(2), ' 151.15(A)(3), or ' 151.15(A)(4) must be notified about the public bid in the manner prescribed by ' 151.33, by means of a written statement including:

- (1) The name of the person to whom the order was issued;
- (2) A legal description or address of the unsafe premises that are the subject of the order;
- (3) A statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) A description of work to be accomplished;
- (5) A statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
- (6) The time of the bid opening;
- (7) The place of the bid opening; and

(8) The name, address, and telephone number of the enforcement authority.

(D) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by division (C) above, except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(E) Notice of the statement that public bids are to be let must be given, at least ten days before the date of the public bid, to all persons who have a substantial property interest in the property and are subject to an order other than an order under ' 151.15(A)(2), (A)(3), or (A)(4).

(F) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication unless the enforcement authority has received information in writing that enables the unit to make service under ' 151.33 of this chapter by a method other than publication.

(^99 Code, ' 6-46) (Ord. 652, passed 6-7-99)

' 151.22 LIABILITY FOR COSTS FOR WORK PERFORMED.

(A) When action required by an order is performed by the enforcement authority or by a contractor acting under ' 151.21, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was recorded to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under ' 151.21;

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under ' 151.21. In calculating the amount of the average processing expense, the following costs may be considered:

(a) The cost of obtaining reliable information about the identity and location of persons who own a substantial property interest in the unsafe premises;

(b) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with ' 151.33;

(c) Salaries for employees;

(d) The cost of supplies, equipment, and office space.

(B) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is

required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten.

(^99 Code, ' 6-47) (Ord. 652, passed 6-7-99)

' 151.23 NOTICE OF UNPAID COSTS.

(A) If all or any part of the costs listed in ' 151.22 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than 15 days after the completion of the work, the enforcement authority does not act under ' 151.24 and the enforcement authority determines that there is a reasonable probability of obtaining recovery, the enforcement authority shall prepare a record stating:

(1) The name and last known address of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time the order requiring the work to be performed was recorded to the time that the work was completed;

(2) The legal description or address of the unsafe premises that were the subject of work;

(3) The nature of the work that was accomplished;

(4) The amount of the unpaid bid price of the work that was accomplished, and

(5) The amount of the unpaid average processing expense.

The record must be in a form approved by the state board of accounts.

(B) The enforcement authority, or its head, shall swear to the accuracy of the record before the clerk of the circuit court and deposit the record in the clerk=s office. Notice that the record has been filed and that a hearing on the amounts indicated in the record may be held must be sent to the persons named in the record, in the manner prescribed by ' 151.33.

(C) If, within 30 days after the notice required by division (B), a person named in the record files with the clerk of the circuit court a written petition objecting to the claim for payment and requesting a hearing, the clerk shall enter the cause on the docket of the circuit or superior court as a civil action, and a hearing shall be held on the question in the manner prescribed by I.C. 4-2.5. However, issues that could have been determined under ' 151.18 of this chapter may not be entertained at the hearing. At the conclusion of the

hearing, the court shall either sustain the petition or enter a judgment against the persons named in the record for the amounts recorded or for modified amounts.

(D) If no petition is filed under division (C), the clerk of the circuit court shall enter the cause on the docket of the court and the court shall enter a judgment for the amounts stated in the record.

(E) A judgment under division (C) or (D), to the extent that it is not satisfied under I.C. 27-2-15, is a debt and a lien on all the real and personal property of the person named, or a joint and several debt and lien on the real and personal property of the persons named. The lien on real property is perfected against all creditors and purchasers when the judgment is entered on the judgment docket of the court. The lien on personal property is perfected by filing a lis pendens notice in the appropriate filing office, as prescribed by the Indiana Rules of Trial Procedure.

(F) Judgments rendered under this section may be enforced in the same manner as all other judgments are enforced.

(⁹⁹ Code, ¹ 6-48) (Ord. 652, passed 6-7-99)

¹ 151.24 UNPAID COSTS; RECOVERY BY TAX ROLL ASSESSMENT.

(A) This section does not apply to the collection of an amount if a court determines under ¹ 151.23 of this chapter that the enforcement authority is not entitled to the amount.

(B) If all or any part of the costs listed in ¹ 151.22 of this chapter remain unpaid for any unsafe premises (other than unsafe premises owned by a governmental entity) for more than 15 days after completion of the work, the enforcement authority may send notice under ¹ 151.33 of this chapter to each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The notice must require full payment of the amount owed within 30 days.

(C) If full payment of the amount owed is not made less than 30 days after the notice is delivered, the enforcement officer may certify the following information to the County Auditor:

(1) The name of each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;

(2) The description of the unsafe premises, as shown by the records of the County Auditor;

(3) The amount of the delinquent payment, including all costs described in ¹ 151.22 of this chapter.

(D) The County Auditor shall place the total amount certified under division (C) on the tax duplicate for the affected property as a special assessment. The total amount, including accrued interest, shall be collected as delinquent taxes are collected.

(E) An amount collected under division (D), after all other taxes have been collected and disbursed, shall be disbursed to the unsafe building fund.

(F) A judgment entered under ' 151.23 hereof may be collected under this section. However, a judgment lien need not be obtained under ' 151.23 before a debt is certified under this section.
(^99 Code, ' 6-49) (Ord. 652, passed 6-7-99)

• **151.25 UNSAFE BUILDING FUND; TRANSFER OF MONIES.**

(A) The enforcement authority shall establish in its operating budget a fund designated as the *Unsafe Building Fund*. Any balance remaining at the end of a fiscal year shall be carried over in the fund for the following year and does not revert to the general fund.

(B) Money for the unsafe building fund may be received from any source, including appropriations by local, state, or federal governments, and donations. The following money shall be deposited in the fund:

(1) Money received as payment for or settlement of obligations or judgments established under ' ' 151.19 through 151.23 and ' ' 151.27 through 151.32 of this chapter;

(2) Money received from bonds posted under ' 151.17 of this chapter;

(3) Money received in satisfaction of receivers= notes or certificates that were issued under ' 151.30 of this chapter and were purchased with money from the Unsafe Building Fund;

(4) Money received for payment or settlement of civil penalties imposed under ' 151.17 of this chapter;

(5) Money received from the collection of special assessments under ' 151.24 of this chapter.

(C) Money in the Unsafe Building Fund may be used for the expenses incurred in carrying out the purposes of this chapter, including:

(1) The cost of obtaining reliable information about the identity and location of each person who owns a substantial property interest in the unsafe building;

(2) The cost of an examination of an unsafe building by a registered architect or registered engineer not employed by the department;

(3) The cost of surveys necessary to determine the location and dimensions of real property on which an unsafe building is located;

(4) The cost of giving notice of orders, notice of statements of rescission notice of continued hearing, and notice of statements that public bids are to be let in the manner prescribed by ' 151.33 of this chapter;

(5) The bid price of work by a contractor under ' 151.20 or ' ' 151.27 through 151.32 of this chapter;

(6) The cost of emergency action under ' 151.19 of this chapter; and

(7) The cost of notes or receivers= certificates issued under ' 151.30.

(D) Payment of money from the Unsafe Building Fund must be made in accordance with applicable law.

(^99 Code, ' 6-50)

(E) The board or commission having control over the department may transfer all or part of the money in a building, demolition, repair, and contingent fund that was established by I.C. 18-5-5-7 (before its repeal on September 1, 1981) to the Unsafe Building Fund.

(^99 Code, ' 6-51)

' 151.26 INSPECTION WARRANTS.

(A) If the owners or those in possession of a building refuse inspection, an inspection officer of the enforcement authority may obtain an inspection warrant from any court of record in the county in which the building is located in order to determine if the building is an unsafe building. The court shall issue the warrant subject to the following conditions:

(1) The person seeking the warrant must establish that the building to be searched or inspected is to be searched or inspected as part of a legally authorized program of inspection that naturally includes the building, or that there is probable cause for believing that a condition, object, activity, or circumstance legally justifies a search or inspection of that building.

(2) An affidavit establishing one of the grounds described in division (1) must be signed under oath or affirmation by the affiant.

(3) The court must examine the affiant under oath or affirmation to verify the accuracy of the affidavit.

(B) The warrant is valid only if it:

(1) Is signed by the judge of the court and bears the date and hour of its issuance above that signature, with a notation that the warrant is valid for only 48 hours after its issuance;

(2) Describes (either directly or by reference to the affidavit) the building where the search or inspection is to occur so that the executor of the warrant and owner or the possessor of the building can reasonably determine what property the warrant authorizes an inspection of;

(3) Indicates the conditions, objects, activities, or circumstances that the inspection is intended to check or reveal; and

(4) Is attached to the affidavit required to be made in order to obtain the warrant.

(C) A warrant issued under this section is valid for only 48 hours after its issuance, must be personally served upon the owner or possessor of the building, and must be returned within 72 hours.

(^99 Code, ' 6-52) (Ord. 652, passed 6-7-99)

' 151.27 CIVIL ACTIONS REGARDING UNSAFE PREMISES.

The department, acting through its enforcement authority or a person designated by the enforcement authority, may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one or more of the kinds of relief authorized by ' ' 151.28 through 151.32.

(^99 Code, ' 6-53) (Ord. 652, passed 6-7-99)

' 151.28 INJUNCTIONS.

A court acting under ' 151.27 may grant a mandatory or prohibitory injunction against any person that will cause the order to be complied with, if it is shown that:

(A) An order, which need not set a hearing date, was issued to the person;

(B) The person has a property interest in the unsafe premises that are the subject of the order that would allow the person to take the action required by the order;

(C) The building that is the subject of the order is an unsafe building; and

(D) The order is not being reviewed under ' 151.18 of this chapter.

(^99 Code, ' 6-54) (Ord. 652, passed 6-7-99)

' 151.29 CIVIL FORFEITURE.

(A) A court acting under ' 151.27 may impose a civil forfeiture not to exceed \$1,000 against any person if the conditions of ' 151.28 are met. The forfeiture imposed may not be substantially less than the cost of complying with the order, unless that cost exceeds \$1,000. The effective date of the forfeiture may be postponed for a period not to exceed 30 days, after which the court may order the forfeiture reduced or stricken if it is satisfied that all work necessary to fully comply with the order has been done.

(B) On request of the enforcement authority the court shall enter a judgment in the amount of the forfeiture. If there is more than one party defendant, the forfeiture is separately applicable to each defendant. The amount of a forfeiture that is collected shall be deposited in the Unsafe Building Fund. (^99 Code, ' 6-55) (Ord. 652, passed 6-7-99)

' 151.30 APPOINTMENT OF A RECEIVER.

(A) A court acting under ' 151.27 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements;

(2) The receiver may be a not-for-profit corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county;

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations;

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises;

(5) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver=s certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within 60 days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the County Recorder=s office:

(a) The legal description of the tract of real property on which the unsafe building is located;

(b) The face amount and interest rate of the note or certificate;

(c) The date when the note or certificate was sold or transferred by the receiver;

(d) The date of maturity.

(6) Upon payment to the holder of a receiver=s note or certificate of the face amount and interest, and upon filing in the Recorder=s office of a sworn statement of payment, the lien of that note or certificate

is released. Upon a default in payment on a receiver=s note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic=s liens or mortgages. However, the foreclosure proceedings must be commenced within two years after the date of default;

(7) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(B) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(C) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(^99 Code, ^ 6-56) (Ord. 652, passed 6-7-99)

^ 151.31 COURT ORDER AUTHORIZING PERFORMANCE OF WORK; JUDGMENT FOR COSTS.

(A) A court acting under ^ 151.27 of this chapter may authorize the department, acting through its enforcement authority, to cause the action required by the order to be performed by a contractor licensed and qualified under law, if it is shown that:

(1) An order was issued to each person having a substantial property interest in the unsafe premises;

(2) Each of the orders has been affirmed or modified at a hearing in such a manner that all persons having substantial property interest in the unsafe premises that are the subject of the orders are currently subject to an order requiring substantially identical action;

(3) The order, as affirmed or modified at the hearing, has not been complied with;

(4) The building that is the subject of the order is an unsafe building; and

(5) The order is not being reviewed under ^ 151.18 of this chapter.

(B) If the enforcement authority requests permission to cause the action required by the order to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(C) The cost of the work and the processing expenses incurred by the enforcement authority computed

under ' 151.22 of this chapter, may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. (^99 Code, ' 6-57) (Ord. 652, passed 6-7-99)

' 151.32 EMERGENCIES; COURT ORDER AUTHORIZING SAFE PREMISES WORK.

(A) A court acting under ' 151.27 of this chapter may set a hearing to be held within ten days after the filing of a complaint alleging the existence of unsafe premises presenting an immediate danger to the health and safety of the surrounding community sufficient to warrant emergency action. Upon a finding at the hearing in favor of the department, the court may:

(1) Permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law;

(2) Permit the enforcement authority to cause the action necessary to make the premises safe to be immediately performed by a contractor licensed and qualified under law after the defendants have had a reasonable time, as established by the court, to make the unsafe premises safe and have failed to complete the necessary action; or

(3) Grant a mandatory injunction relative to the unsafe premises that would require a defendant who has an interest in the premises that allows the defendant to take corrective action to immediately make the premises safe.

(B) In granting relief under division (2) or (3) above, the court shall set a date certain for the completion of the necessary action and shall hold a hearing within ten days after that date to determine whether the necessary action has been completed.

(C) The issuance of an order concerning the unsafe premises is not a prerequisite to permission by the court to cause action to be performed on the unsafe premises. If an order has been issued concerning the unsafe premises, it does not prevent the permission by the court to cause action to be performed on the unsafe premises.

(D) If the enforcement authority requests authority to cause action on the unsafe premises to be performed by a contractor, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(E) The cost of accomplishing the work may, after a hearing, be entered by the court as a judgment against persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(^99 Code, ' 6-58) (Ord. 652, passed 6-7-99)

▪ **151.33 NOTICE.**

(A) Notice of orders, notice of continued hearings without a specified date, notice of a statement that public bids are to be let, and notice of claims for payment must be given by:

(1) Sending a copy of the order or statement by registered or certified mail to the residence or place of business or employment of the person to be notified, with return receipt requested;

(2) Delivering a copy of the order or statement personally to the person to be notified; or

(3) Leaving a copy of the order or statement at the dwelling or usual place of abode of the person to be notified.

(B) If, after a reasonable effort, service is not obtained by a means described in division (A) above, service may be made by publishing a notice of the order or statement in accordance with I.C. 5-3-1 in the county where the unsafe premises are located. However, publication may be made on consecutive days. If service of an order is made by publication, the publication must include the information required by subsections (1), (2), (4), (5), (6), (7), and (9) of ' 151.15(C), and must also include a statement indicating generally what action is required by the order and that the exact terms of the order may be obtained from the enforcement authority.

(C) When service is made by any of the means described in this section, except by mailing or by publication, the person making service must make an affidavit stating that he has made the service, the manner in which service was made, to whom the order or statement was issued, the nature of the order or statement, and the date of service. The affidavit must be placed on file with the enforcement authority.

(D) The date when notice of the order or statement is considered given is as follows:

(1) If the order or statement is delivered personally or left at the dwelling or usual place of abode, notice is considered given on the day when the order or statement is delivered to the person or left at his dwelling or usual place of abode;

(2) If the order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the enforcement authority;

(3) Notice by publication is considered given on the date of the second day that publication was made.

(E) Notice of orders, notice of continued hearings without a specified date, and notice of a statement that public bids are to be let need not be given to a person holding a property interest in an unsafe premises if:

(1) No instrument reflecting the property interest held by the person is recorded in the Recorder=s

office of the county where the unsafe premises is located;

(2) The order or statement was recorded in accordance with ' 151.34 and;

(3) The enforcement authority has received neither written information nor actual notice of the identity of the person who holds a property interest in the unsafe premises.

(F) A person who fails to record an instrument reflecting an interest in his unsafe premises is considered to consent to action taken under this chapter relative to which notice would otherwise be given. ('99 Code, ' 6-61) (Ord. 652, passed 6-7-99)

' 151.34 RECORDING ORDERS, STATEMENT OF BIDS; RECORDS OF TOWN ACTION.

(A) The enforcement authority shall record in the office of the County Recorder orders issued under ' 151.15, statements of rescission issued under ' 151.15 of this chapter, statements that public bids are to be let under ' 151.21 of this chapter, and records of action in which an order is affirmed, modified, or rescinded taken by the hearing authority under ' 151.17. The Recorder shall charge the fee required under I.C. 36-2-7-10 for recording these items.

(B) A person who takes an interest in unsafe premises that are the subject of an order takes that interest, whether or not a hearing has been held, subject to the terms of the order and in such a manner that all of the requirements of ' ' 151.20, 151.21 and 151.27 through 151.32 relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing and in such a manner that all of the requirements of ' ' 151.20, 151.21 and 151.27 through 151.32 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(C) A person who takes an interest in unsafe premises that are the subject of a statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by ' 151.20 is considered given to the person. ('99 Code, ' 6-62) (Ord. 652, passed 6-7-99)

' 151.35 TRANSFER OF PROPERTY BY PERSONS NOT COMPLYING WITH ORDERS.

(A) A person who has been issued and has received notice of an order relative to unsafe premises and has not complied with that order:

(1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises before transferring or agreeing to transfer that interest; and

(2) Must, within five days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(a) The full name, address, and telephone number of the person taking a substantial property interest in the unsafe premises; and

(b) The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(B) If a judgment is obtained against the department, enforcement authority, or other governmental entity for the failure of that entity to provide notice to persons holding an interest in unsafe premises in an action taken by the entity under this law, a person who failed to comply with this section is liable to the town for the amount of the judgment if it can be shown that the town=s failure to give notice was a result of that person=s failure.

(^99 Code, ' 6-63) (Ord. 652, passed 6-7-99)

' 151.99 PENALTY.

A person who:

(A) Remains in, uses, or enters a building in violation of an order made under this chapter;

(B) Knowingly interferes with or delays the carrying out of an order made under this chapter;

(C) Knowingly obstructs, damages, or interferes with persons engaged or property used in performing any work or duty under this chapter; or

(D) Fails to comply with ' 151.34 of this chapter;

commits a Class C infraction pursuant to I.C. 36-7-9-28. Each day that the violation continues constitutes a separate offense.

(^99 Code, ' 6-63(b)) (Ord. 652, passed 6-7-99)

CHAPTER 152: ZONING, BUILDING AND SUBDIVISION CONTROL

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ARTICLE I. GENERAL PROVISIONS**152.001 AUTHORITY.**

(A) This chapter is the combined Zoning Code, Subdivision Control Regulations and Building Code of the town codified into one document and enacted under the authority provided for by state law as indicated below.

(^99 Code, ' 10-16)

(B) The Zoning Code provisions found throughout this chapter are enacted under the authority granted to the town and consistent with I.C. 36-7-4. This chapter provides the minimum standards for land use, land development and building standards for the protection of life, health, environment, public safety and general welfare of the community.

(^99 Code, ' 10-17)

(C) The Building Code provisions enacted in this chapter are enacted under the authority granted to the town consistent with I.C. 22-15-4 and/or I.C. 22-13, and the building code provisions required to be submitted to the State Fire Safety and Building Code Commission will be submitted as required by law.

(^99 Code, ' 10-18)

(D) The Subdivision Control Regulations are enacted under the authority granted to the town and consistent with I.C. 36-7-4 including the Subdivision Control Regulations in Ordinance No. 402, as amended.

(^99 Code, ' 10-19)

(E) Each and every provision of this chapter whether styled as a Zoning Code, Subdivision Control Regulation or Building Code are intended to be enacted in the manner required by law to provide all of the presumptions available to municipal ordinance enactments under the laws of the State of Indiana.

(^99 Code, ' 10-20) (Ord. 643, passed 3-2-98)

152.002 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular. The word *shall* is always mandatory and not directory. Unless otherwise specified, all distances shall be measured horizontally, in any direction.

ACCESSORY BUILDING. A subordinate building or structure, such as a detached garage or storage shed, located on the same lot or building site as a principal building, and not designed nor used for any purpose involving human occupancy or activity.

ACCESSORY USE. A subordinate use that relates to the same lot or building site as a primary use and is a use other than human occupancy.

ADDITION. Any construction which increases the cubic content of an existing building.

ALLEY. A minor right-of-way, dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street.

ALTERATION. Any work on a building which changes the position or material of any wall, ceiling, roof, foundation, or opening.

ALTERATION, MINOR. The customary repairs and replacement of parts of a building or structure as may be required for normal maintenance or for the safety of the building except those changes defined as structural alterations.

ALTERATION, STRUCTURAL. Any change or replacement of the supporting members of a building such as bearing walls, columns, beams, girders, exit facilities or an enlargement whether by extending on a side or by increasing in height or the moving from one location to another.

ANGLE OF REPOSE. The angle of repose (or the angle of internal friction) of any material is the angle with the horizontal at which the material will stand when piled dry.

APARTMENT HOUSE OR APARTMENT BUILDING. A building or portion thereof arranged, intended or designed to be occupied by two or more families living independently of each other (see ADwelling@).

APPURTENANCE. Any structure above or below the ground other than a building, located on the same site as an existing building, the use of which is incidental to that building. **APPURTENANCES** may consist of walls, stairs, septic tanks, dry wells, drains, fences, or other similar structures. Swimming pools and retaining walls shall be considered **APPURTENANCES**.

ARCHITECTURAL REVIEW COMMITTEE. A committee of the Plan Commission responsible for review and approval of building plans and specifications.

AREA, LOT. The total land area within the property lines of any parcel of land measured on a horizontal plane excluding streets, alleys, other public ways or lakes, rivers or streams.

AUTOMOBILE SERVICE STATION OR GASOLINE STATION. Any premises primarily used for

supplying gasoline and oil at retail directly to the consumer, including minor accessories and minor services for automobiles.

BASEMENT. A space wholly or partly underground, and having more than one-half of its height, measuring from its floor to its ceiling, below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above finished grade at any point, such space shall be considered a story.

BOARD OF ZONING APPEALS. The Board of Zoning Appeals of the Town of Ogden Dunes, Indiana.

BUILDING. Any structure constructed or used for residence, business, commercial or other public or private purpose having a roof supported by walls or columns. Includes the word Astructure.@

BUILDING COMMISSIONER. The Building Commissioner of the Town of Ogden Dunes.

BUILDING HEIGHT. The distance of a vertical line taken from the lower of the natural grade or the finished grade of the land at the edge of the structure to the top along any point on the structure.

BUILDING MATERIAL. Includes (but is not limited to) all buildings, roofs including eaves, driveways, walks, decks, patios, porches, stairs, retaining walls and pools. (Note: bark and mulch are not considered building material; gravel and stone are considered building material.)

BUILDING, PRINCIPAL OR MAIN. A building in which is conducted the main or principal use of the lot on which the building is situated.

BUILDING SETBACK LINES. A line on a plat between which line and the adjacent street right-of-way, side lot line or rear lot line, buildings may not be erected; distance to the line is measured from the nearest physical protuberance, including but not limited to, eaves, gutters, and decks, of the buildings to the adjacent street right-of-way, side or rear lot line.

CATCH BASIN. A receptacle to intercept water, made of reinforced concrete bell and spigot pipe and measuring at least 24 inches in diameter by four feet in length with steel perforated cover and open bottom. (See Appendix A following this chapter).

CERTIFICATE OF OCCUPANCY. A certificate stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

CLEARING. Any activity that removes the vegetative ground cover.

COMMERCIAL OR BUSINESS. Any activity conducted for profit or gain.

COMMISSION (PLAN COMMISSION). Plan Commission of Ogden Dunes, Indiana.

CONSTRUCTION START DATE. The date construction activity starts, as certified and recorded by the Building Commissioner.

CONTRACTOR. Any person or corporation, except a licensed architect or registered professional engineer, who in any capacity other than that as the employee of another for wages as the sole compensation, undertakes to construct, alter, repair, remove, move, wreck, or demolish any structure or to excavate upon any premises.

CROSSWALK. A strip of land dedicated to public use, which is reserved through a block to provide pedestrian access to adjacent areas.

CUL-DE-SAC (COURT OR DEAD-END STREET). A minor street having but one outlet for vehicular traffic.

DETACHED BUILDING. A building that has no structural connection with another building.

DEVELOPER. Any person, partnership or corporation or duly authorized agent thereof, engaged in developing or improving a lot or group of lots or structures thereon for use or occupancy.

DIAMETER BREAST HEIGHT (D.B.H). The diameter in inches of a tree measured at four and one-half feet above the existing grade.

DISTRICT. Any section of the town for which uniform zoning regulations as herein provided govern the use of land, structure and premises, the permitted height and area of structures, and the area or open spaces about buildings and structures.

DRIP LINE. An imaginary, perpendicular line that extends downward from the outermost tip of the tree branches to the ground.

DRY WELL. A concrete vessel with a grid of about one and one-half inches diameter holes in the sides of the vessel that is buried in the ground and surrounded by large stones (greater than three inches in diameter) that is placed to receive water runoff and infiltrate the water down through the sand into the ground water table.

DWELLING. A building which is to be occupied exclusively for living purposes.

DWELLING, MULTIPLE. An apartment house or apartment building (see Apartment House@).

DWELLING, SINGLE-FAMILY. A separate detached building designed for and occupied exclusively as a residence by one family.

EASEMENT. A grant for the use of a strip of land by the public, a corporation or persons for specified purposes or uses. Such easements include areas set aside for access to adjoining property or access for utilities, drainage or recreational purposes.

EROSION. Wearing away of the land by running water, waves, temperature changes, ice or wind.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication supply or disposal systems, including poles, wires, main drains, sewers, pipes, conduit cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies, or for the public health or safety or general welfare, but not including buildings.

EXCAVATING. Any digging, scooping, or other methods of removing earth materials.

FAMILY. One or more persons living as a single housekeeping unit as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.

FILLING. Any depositing or stock-piling of natural or man-made materials.

FLOOR AREA. The square foot area of a building within its largest outside dimensions computed on a horizontal plane at the main or ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior and interior stairways.

FOOTING DRAIN. A drain pipe installed around the exterior of a basement wall foundation to relieve water pressure caused by high groundwater elevation.

FRONT YARD. That part of the unoccupied open space of a lot across the entire width of the lot between that part of the principal building nearest the street and such street.

FREE-STANDING STRUCTURE. Any structure or building that occupies in excess of 20 square feet of ground area, such as detached garages, detached porches, sheds, and out-buildings of whatsoever nature.

FRENCH DRAIN. Plastic pipe perforated on top and enclosed in a permeable membrane material and laid in a gravel trench that can collect storm water runoff and pipe it in a particular direction.

FRONTAGE. The horizontal distance between side lot lines at the street right-of-way.

GARAGE, PRIVATE. A building or part thereof accessory to a main building to provide for the storage of motor vehicles, which is not designed nor used for human occupancy and in which no occupation nor business for profit is carried on.

GARAGE, PUBLIC OR STORAGE. A building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.

GENERAL CONTRACTOR. A contractor who is responsible for a project on which subcontractors may also be working.

GRADING. Any excavating or filling of natural or man-made materials or any combination thereof, including the land in its excavated or filled condition.

GRUBBING. The effective removal of understory vegetation. As herein defined, no trees greater than three inches d.b.h. will be removed.

IMPERVIOUS. A term applied to a material through which water can not pass, or through which water passes with difficulty.

INDIVIDUAL OR PERSON. Includes a firm, association, corporation, trust or any other legal entity including his or her or its agents.

JURISDICTIONAL AREA. The area encompassed by the corporate limits of the Town of Ogden Dunes.

LAND CLEARING SITE. Those operations where trees and vegetation are removed and which occur previous to the construction of building; such as road right-of-way excavation and paving, land and drainage system excavation, utility excavation, grubbing and any other necessary clearing operations.

LAND DISTURBING ACTIVITY. Any activity which may result in soil erosion from water or wind and the movement of sediment into state waters, including but not limited to, clearing, grading, excavating, transporting and filling of land.

LOT. A parcel, tract or area of land defined by boundary lines in a recorded plat, fronting on a street and which is intended as a unit for transfer of ownership. Includes Aplot@ or Aparcel.@

LOT, AREA. See AArea, Lot.@

LOT, CORNER. A lot at the junction of and abutting two or more intersecting streets.

LOT COVERAGE. That portion of the lot covered by and within foundations, cantilevered areas, porches, accessory buildings, carports and garages (excluding: eaves, driveways, walks, decks, patios, stairs, retaining walls and pools).

LOT, DEPTH. The mean horizontal distance between the front lot line, and the rear lot line of a lot measured within the lot boundaries.

LOT LINE, FRONT. The boundary of a lot which is along an existing or dedicated public street or,

where no public street exists, is along a public way. The owner of a corner lot may select either street lot line as the front lot line.

LOT LINE, REAR. That boundary of a lot which is most distant from, or is most nearly parallel to the front lot line.

LOT LINE, SIDE. Any boundary of a lot which is not a front lot line or rear lot line.

LOT, WIDTH. The mean horizontal distance between the side lot lines of a lot measured within the lot boundaries.

MASTER PLAN. A complete plan or any part of such plan for the development of the Town of Ogden Dunes as prepared by the Plan Commission and adopted by the town.

MOBILE HOME. A structure designed to be used for human habitation, not having a permanent foundation and/or being able to easily be equipped with wheels or other devices to be transported from place to place. A travel trailer shall be considered a mobile home if occupied.

NATURAL GRADE. The topography prior to any land disturbance, or the existing topography for any additional improvements, or the existing topography at the site of demolished buildings.

NON-CONFORMING USE. A legally existing use of land or building which fails to comply with the regulations set forth in this chapter applicable to the district in which such use is located.

PARKING SPACE. The area used for parking an automobile or automobiles by occupants of buildings or others, but not for commercial purposes nor for hire.

PARKS. Public or private areas of land maintained artificially or in the natural state for public or private use.

PAVEMENT SLOPING. The sloping of pavement to direct storm water runoff in a particular direction. (Note: streets with a 6% or more grade were designed with the center of the pavement two inches lower than the two outer edges. At the base of each such grade the road was contoured to carry this water to a storm water basin along side the road).

PERFORMANCE STANDARD. A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire, explosive hazards, and glare or heat generated by or inherent in uses of land or buildings.

PERMEABLE. A term applied to a material through which water can pass.

PLAT. A map of land subdivision prepared in a form suitable for filing for record with the Porter County Recorder, and with other such requirements as defined by town ordinances. The word **PLAT** shall include the word Areplat.®

PLAT OF SURVEY. A dimensioned drawing by a registered land surveyor of an actual staked survey of a lot showing the lot corners and the location of existing structures on the lot.

PLOT PLAN. A dimensioned drawing by anyone utilizing the recorded subdivision plat of a lot of record showing the dimensioned location of proposed structures.

PUBLIC USES. Parks, schools or administrative, cultural and service buildings owned and operated by a political subdivision but not including public lands or buildings devoted solely to the storage and maintenance of equipment and material.

PUBLIC UTILITY BUILDINGS. Buildings erected, constructed, altered or maintained by any person, firm, corporation, municipal department or Board duly authorized to furnish to the public, electricity, gas, steam, telephone, telegraph, transportation, public water or public sewage collection, treatment or disposal services.

REAR YARD. The area of a lot, unoccupied except by an accessory building as hereinafter permitted extending across the full width of the lot between the rear line of the principal building and the rear line of the lot.

REMODEL. Any renovation, improvement or modernizing.

REPAIR. Any work intended to place in good condition a part of an existing building without changing its size, design or utility.

SEDIMENT. Material of soil and rock origin, transported, carried, or deposited by water.

SEMI-PUBLIC USES. Churches, Sunday schools, nursery schools, and other institutions of religious, charitable or philanthropic nature.

SETBACK LINES. See ABuilding Setback Lines.@

SIDE YARD. That part of a lot between the building and the side line of the lot and extending from the street line to the rear of such lot.

SIGN. A visual device or structure used for advertising, display or publicity purposes.

SLOPE. The ground surface slope is the angle of inclination of the ground surface with the horizontal.

STORM WATER BASIN. A natural or man made depression in the earth=s surface that collects and stores storm water runoff and infiltrates the water down through the sand to the ground water table.

STORM WATER RUNOFF. The water derived from rains falling within a basin, flowing over the surface of the ground or pavement or collected in channels or conduits.

STORY. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

STREET or **HALF STREET**. A right-of-way, other than an alley, which is 25 feet or more in width between property lines, and is dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name.

STRUCTURE. Anything constructed or erected which requires location on the ground or which is attached to something having a location on the ground.

SUBCONTRACTOR. Any contractor other than a general contractor, but does not include an individual who furnishes materials and supplies.

SUBDIVIDER. Any individual, firm or other legal entity undertaking the development of land which complies with the definition of a subdivision as defined in these regulations.

SUBDIVISION (RE-SUBDIVISION). The division or re-division of a single lot, tract or parcel of land, or a part thereof, into two or more lots, any one of which is less than ten acres, for the purpose, whether immediate or future, of the transfer of ownership; or, if a new street or street realignment is involved, any division of a parcel of land; or the improvement of one or more lots or parcels of land for residential, commercial or industrial purposes involving the subdivision or allocation of land by buildings, groups of buildings, streets or other open spaces for common usage. **SUBDIVISION** shall also include the sale or exchange of a parcel of land between adjoining lot owners even where such sale or exchange is not for the purpose of creating a new building lot.

TOWN. The Town of Ogden Dunes, Indiana.

TOWN COUNCIL. The legislative body of the Town of Ogden Dunes, Indiana.

TRANSPLANT. The digging up by a property owner of a tree from one place on his property and the planting of the same tree in another place on the same property.

TRANSPORTATION. Any moving of natural or man-made materials from one place to another other than such movement incidental to grading, when such movement results in destroying the vegetative cover either by tracking or the build-up of natural or man-made material to the extent that erosion and sedimentation will result.

TRAVEL TRAILER. A vehicle or other portable structure that is designed to move on the highway and be used as a dwelling.

TREE. Any self-supporting, woody plant of a species which normally, in the area, grows at maturity to an overall height of a minimum of 15 feet.

TREE REMOVAL. The actual removal of a tree by digging up, cutting down or the effective removal through damage.

TREE SURVEY. A drawing which provides the following information: location of all trees, plotted by accurate techniques; common name of all trees; and diameter breast height (d.b.h.).

USE. The purpose or activity for which a building, structure or land is occupied or maintained.

USE, SPECIAL EXCEPTION. A use permitted within certain zoning districts of such a nature that the town has reserved the right to approve its exact location subject to such conditions as are stated in this chapter and to any special conditions imposed by the Board of Zoning Appeals to protect other uses and properties in the neighborhood.

USED OR OCCUPIED. As applied to any land or building shall be construed to include the words Aintended, arranged or designed to be used or occupied.@

VARIANCE. A modification of the terms of this chapter to permit a condition or use which otherwise will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. The establishment of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

YARD. A space on the same lot with a main building, which is open, unoccupied and unobstructed by structures, except as otherwise provided in the Zoning Code.
(^99 Code, ' 10-25) (Ord. 643, passed 3-2-98)

ARTICLE II. ZONING CODE

GENERAL

' 152.015 JURISDICTIONAL AREA.

This Zoning Code shall apply to all land within the incorporated area of the town.
(^99 Code, ' 10-50) (Ord. 643, passed 3-2-98)

▪ **152.016 PURPOSE.**

This Zoning Code is enacted to preserve and promote the public health, convenience, morals, safety, comfort, prosperity and general welfare, and for the following more particularly specified purposes:

(A) To implement the Master Plan;

(B) To protect the character and stability of residential, commercial, and recreational areas; to promote the orderly development of such areas; and to preserve the natural beauty within the town.

(C) To provide adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light, air and for the avoidance of congestion of population;

(D) To facilitate the adequate but economical provision of public improvements;

(E) To classify, regulate and limit the location, height, area, bulk and use of buildings and/or land within the town;

(F) To guide and regulate future growth and development of the town for the benefit of its citizens. ('99 Code, ' 10-52) (Ord. 643, passed 3-2-98)

' 152.017 APPLICATION OF THE REGULATIONS.

(A) Except as hereinafter provided:

(1) No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be moved, erected, located, converted, enlarged, reconstructed or altered unless in conformity with the regulations herein specified for the district in which it is located. No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.

(2) No part of a yard or other open space about any building which is required for the purpose of complying with the provisions of this Zoning Code shall be included as a part of a yard or other open space similarly required for another building.

('99 Code, ' 10-55)

(B) The location and type of improvements upon any lot or premises shall preserve, insofar as possible, its natural features which would add value to the subdivision and town, such as trees, valleys, watercourses, terrain and other similar irreplaceable assets.

('99 Code, ' 10-56) (Ord. 643, passed 3-2-98)

' 152.018 INTERPRETATION.

In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements. It is not intended by this Zoning Code to interfere with, abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with or abrogate or annul any

ordinances, other than expressly repealed hereby, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this Zoning Code or which shall be adopted or provided, except that where this Zoning Code imposes a greater restriction upon the use of buildings or land or upon the height of buildings or requires larger open spaces or greater lot area per family than are required or imposed by such easements, covenants or agreements between parties or by such ordinances, rules, regulations or permits, the provisions of this Zoning Code shall control.

(^99 Code, ' 10-120) (Ord. 643, passed 3-2-98)

DISTRICT REGULATIONS

' 152.030 ESTABLISHMENT OF DISTRICTS.

(A) For the purposes of this Zoning Code, the town is hereby divided into the following zoning districts:

- (1) R: Residential District
- (2) C: Commercial District
- (3) PWU: Public Water Utility District
- (4) PP: Parks and Public Places District

(^99 Code, ' 10-60)

(B) Districts are bounded and shown on the Zoning Map of Ogden Dunes, Indiana, which map, together with all notations, references and data shown thereon is hereby made a part hereof. The zoning map shall be kept on file for examination in the office of the Clerk-Treasurer of the town. Where such districts are not shown on the zoning map but are shown as a part of the Master Plan, the zoning map shall be subject to amendment procedures as provided herein. Any amendments thus made shall conform to the Master Plan.

(^99 Code, ' 10-61) (Ord. 643, passed 3-2-98)

Cross-reference:

Zoning and Land Use Map, see Appendix following Chapter 150

▪ **152.031 PERMITTED AND SPECIAL EXCEPTIONS.**

The permitted uses and special exceptions as contained herein shall be as defined in Article 1, Chapter 2 or in accordance with the common usage of the word. Any use not listed or defined or similar to a permitted use or special exception, as determined by the Plan Commission, shall be prohibited.

Special exceptions shall be permitted upon approval by the Board of Zoning Appeals as permitted by this Code and subject to the conditions as the Board may require.

(^99 Code, ' 10-64) (Ord. 643, passed 3-2-98)

▸ **152.032 R RESIDENTIAL DISTRICT.**

(A) *Intent.* It is the intent of the town in the creation of the R District to provide for a stable environment for dwelling uses.

(B) *Permitted uses.* In an R District, no building or premises shall be used and no building shall be erected which is arranged, designed or intended to be used for other than one or more of the following specified uses:

- (1) Single-family dwellings;
- (2) Accessory buildings or uses;
- (3) Public utility buildings;
- (4) Semi-public uses;
- (5) Essential services;
- (6) Special exception uses permitted by this Zoning Code.

(C) *Maximum building height.* No building or structure in an R District shall exceed 30 feet in height or three stories, whichever is less, except as otherwise provided herein. Refer to definition of ***BUILDING HEIGHT***.

(D) *Lot area.* Each dwelling, building or structure permitted in an R District shall be located on a lot having an area of not less than 10,000 square feet, except as otherwise provided herein.

(E) *Lot width.* Each lot in an R District shall contain a width of not less than 100 feet, except for frontage on a cul-de-sac when the width shall be not less than 45 feet, except as otherwise provided herein.

(F) *Lot depth.* Each lot in an R District shall contain a depth of not less than 150 feet, except as otherwise provided herein.

(G) *Lot coverage.* That portion of each lot covered by and within building foundations, cantilevered areas, porches, garages, carports and accessory buildings (not including eaves, driveways, patios, decks and pools) shall not exceed 25%.

(H) *Total lot occupancy.* Not more than 50% of the lot area shall be occupied by building material, to include (but not limited to) all buildings, roofs including eaves, driveways, walks, decks, patios, porches, stairs, retaining walls and pools. (Note: bark and mulch are not considered building material; gravel and stone are considered building material.)

(I) *Yards.* The following yards shall be provided in an R District:

(1) *Front yard.* The depth of the front yard shall be not less than 20 feet.

(2) *Rear yard.* A rear yard of not less than 15 feet in depth shall be provided.

(3) *Side yard.* Each lot or parcel of land shall be provided with two side yards, each of which shall be not less than 15 feet in depth.

(^99 Code, ' 10-65) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

' 152.033 C COMMERCIAL DISTRICT.

(A) *Intent.* In the creation of the C District and its appurtenant regulations, it is the intention of the town that the needs of the motoring public shall be met, that provisions shall be made for highway-oriented commercial uses and that the primary traffic-carrying function of major highways shall be maintained.

(B) *Permitted use.* In a C District, no building or premises shall be used and no building shall be erected which is arranged, designed or intended to be used for other than one or more of the following specified uses, provided that such use complies with all other applicable provisions of this Zoning Code.

(1) Automobile service station;

(2) Car wash;

(3) Eating establishment;

(4) Drive-in bank;

(5) Greenhouses, retail or wholesale;

(6) Retail food and drug sales;

(7) Personal and professional service;

(8) Accessory use;

(9) Essential service;

(10) Public utility building.

(C) *Maximum building height.* No building or structure in a C District shall exceed 36 feet in height or three stories, except as otherwise provided herein.

(D) *Lot area and width.* Each use, structure or building permitted in a C District shall be located on a lot having an area of not less than one-half acre, and a width of not less than 150 feet, unless otherwise permitted herein.

(E) *Lot depth.* Each lot in a C District shall contain a depth of not less than 200 feet unless otherwise permitted herein.

(F) *Yards.* The following yards shall be provided in a C District:

(1) *Front yard.*

(a) The depth of the front yard shall be not less than 50 feet. Within this front yard and adjacent to the street right-of-way line there shall be an open and unobstructed buffer strip of 20 feet in depth. Parking of vehicles in this buffer strip shall be prohibited. Except for accessways permitted in division (b) below, such buffer strip shall contain a curb or other suitable barrier against unchanneled motor vehicle ingress or egress and shall be continuous for the entire width of the lot adjoining the street or highway right-of-way line. Service station pumps may be permitted provided that they shall be located no less than 30 feet from the right-of-way line.

(b) Each lot shall have not more than two accessways to any one street or highway. The width of any accessway leading to or from a highway shall be not less than 16 feet nor shall it exceed 36 feet. Insofar as practicable, the use of common accessways by two or more uses shall be encouraged to reduce the number of such highway access points.

(2) *Rear yard.* The depth of the rear yard shall be not less than 40 feet.

(3) *Side yard.* There shall be two side yards for each lot each of which shall be not less than 15 feet except as otherwise provided herein. When the side of a lot in a C District adjoins an R District, there shall be a side yard on the side so adjoining of not less than 25 feet.

(G) *Percentage of lot coverage.* Buildings together with their accessory uses in a C District shall cover not more than 25% of the area of the lot, except as otherwise provided herein.

(99 Code, ' 10-66) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

• **152.034 PWU PUBLIC WATER UTILITY DISTRICT.**

(A) *Intent.* In the creation of the PWU District, it is the intention of the town that the land zoned for a Public Water Utility District is to be used exclusively for the purpose of providing a water intake from Lake Michigan through a pumping station and to a filtration and distribution plant.

(B) *Permitted uses.* No building or premises shall be used and no building shall be erected which is arranged, designed or intended to be used for other than the following specified uses, provided such complies with all other applicable provisions of this code and with the intent above.

(1) The installation of water lines, pumping stations and filtration and distribution plants.

(2) Necessary principal buildings, accessory buildings, structures, office, warehouse, storage and repair facilities in conjunction with (A) above, to be erected and constructed in accordance with plans and specifications as may be approved therefor from time to time by the Plan Commission.

(3) Essential services.

(C) *Maximum building height.* No building or structure shall exceed 30 feet in height or three stories, except as otherwise provided herein.

(D) *Yards.* The following yards shall be provided in a PWU District.

(1) *Front yard.* The depth of the front yard shall not be less than 70 feet. Except for necessary drives and walks a front yard shall be landscaped and maintained as lawns, along with flowers, trees and/or shrubs, or maintained in an orderly natural state.

(2) *Rear yard.* The depth of the rear yard shall not be less than 25 feet. Where a rear yard abuts an R District, such yard shall be a minimum of 50 feet.

(3) *Side yard.* There shall be two side yards for each lot each of which shall be not less than 15 feet except as otherwise provided by this Zoning Code. When the side of a lot in a PWU District adjoins an R District, then there shall be a side yard on the side so adjoining of not less than 50 feet.

(E) *Percentage of lot coverage.* Buildings together with their accessory uses in a PWU District shall cover not more than 50% of the area of the lot, except as otherwise provided herein.

(^99 Code, ' 10-67) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

▪ **152.035 PP PARKS AND PUBLIC PLACES DISTRICT.**

(A) *Intent.* The intent of the PP District is to provide space for the recreational, civic and administrative needs of the community.

(B) *Permitted uses.* In a PP District, no building or premises shall be used and no building shall be erected which is arranged, designed or intended to be used for other than one or more of the following specified uses:

- (1) Public and private parks and playgrounds;
- (2) Other public uses;
- (3) Essential services.

(C) *Maximum building height.* No building in a PP District shall be erected which exceeds three stories in height, but not to exceed a total height of 30 feet, except as otherwise provided herein.

(D) *Yards.* The following yards shall be provided in a PP District:

- (1) *Front yard.* The depth of the front yard shall be not less than 20 feet.
- (2) *Rear yard.* A rear yard of 15 feet in depth shall be provided.

(3) *Side yard.* Each lot or parcel of land shall be provided with two side yards, each of which shall be not less than 15 feet in depth.

(^99 Code, ' 10-68) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

SUPPLEMENTARY REQUIREMENTS AND REGULATIONS FOR ALL DISTRICTS

' 152.045 SUPPLEMENTARY USE, HEIGHT, AREA AND YARD REQUIREMENTS.

The regulations specified in this Zoning Code shall be subject to the following interpretations and exceptions.

(A) *Use.*

(1) *Accessory uses.* Accessory uses and structures, such as detached private garages, tool or storage sheds, swimming pools, fences, retaining walls and landscaping, are permitted in all districts in conjunction with a primary use or structure, provided the accessory use does not change the character of the

district in which it is located. No accessory building (such as garage or shed) may be located closer than 15 feet to a side or rear lot line, no closer than ten feet from any portion of the principal building, and shall not project further than the front setback line of the principal building. Other structures, such as fences and retaining walls exceeding two feet in height must be set back not less than three feet from any property line.

(a) Not more than one garage, of not more than two-car capacity (24 x 24 ft.), and of not more than one story or total height of 15 feet, nor more than one storage shed (maximum 120 sq. ft.), shall be permitted on any lot in the R District. Temporary or movable structures, such as storage units or tent-like structures, are prohibited.

(b) Outside storage of any materials or equipment, including vehicles, vans, boats, trailers and mobile homes, is prohibited. (Exception: playground equipment, patio or pool furniture, normally in use, are permitted; vehicles or boats may be parked temporarily in driveways for periods not exceeding a total of 30 days in one calendar year.) Not more than four vehicles may be parked in any private driveway, other than for temporary guest use.

(2) *Basement dwellings.* No basement shall be used as a temporary dwelling.

(3) *Dwellings on small lots.* Notwithstanding the limitations imposed by any other provisions of this chapter, the Plan Commission may permit the erection of a dwelling on any lot in the R District, separately owned or under contract of sale and containing an area of less than 10,000 square feet, but not less than 8,000 square feet, and a width or depth less than required therein, provided that:

(a) The lot was not diminished in area, width or depth subsequent to its final platting in accordance with law;

(b) The proposed erection plans result in a front yard of not less than 20 feet, a rear yard of not less than 15 feet and two side yards of not less than five feet each.

(4) *Mobile homes.* The parking of a mobile home in any district is hereby prohibited, unless otherwise provided in this chapter.

(5) *Trailers.* A trailer used for construction headquarters or for the storage of materials used during construction may be parked at a construction site for a period not to exceed six months upon the securing of a permit therefor. Such six-month period shall be renewable for one six-month period only at the option of the Plan Commission.

(6) *Fences and the like.* No fence, sign, structure or privacy wall shall be erected in any front, rear or side yard setback area, except as follows:

(a) An open decorative fence with not less than 80% free opening area, of not more than 32 feet or 42 inches in height, may be permitted;

(b) Fences and/or privacy walls not exceeding 52 feet or 66 inches in height, may be permitted only in rear or side yard setback areas, if written approval of adjoining property owner(s) is filed with application;

(c) In any case herein, no fence, sign, structure, privacy wall or planting may be erected or situated which obstructs or restricts the vision of persons in the lawful use of public roads or streets.

(^99 Code, ' 10-75)

(B) *Height.* The maximum height restrictions on structures shall not apply to spires, church steeples, vents, chimneys, elevator bulkheads, fire towers, tanks, water towers, transmission towers, conveyors, flagpoles and antennae, for which a valid permit has been issued.

(^99 Code, ' 10-76)

(C) *Area and yard requirements.*

(1) No lot, yard or other open space already containing less area than the minimum required by this Zoning Code shall be further divided or reduced.

(2) Walks and driveways may occupy any yard area.

(^99 Code, ' 10-77) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

' 152.046 PERFORMANCE STANDARDS.

(A) *General.* No building or premises shall be used and no building shall be erected in any district which does not comply with the requirements of this chapter. In order to determine whether a proposed use will conform to the requirements of this Zoning Code, the Plan Commission or Board of Zoning Appeals may obtain a qualified consultant to testify, whose cost for services shall be borne by the applicant.

(B) *Air pollution.* No pollution of air by fly ash, dust, smoke, vapors or other substance shall be permitted which is harmful to health, animals, vegetation or property.

(C) *Erosion.* No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties. When top soil has been removed from the surface of a lot on a slope where erosion will cause displacement of loose materials, the developer or contractor shall be required to seed or provide other means to prevent such erosion.

(D) *Electrical disturbance.* No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.

(E) *Fire protection.* All activities and all storage of flammable materials at any point shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and

fire-suppression equipment and devices, such adequacy being determined by the standards prescribed by the National Fire Protection Association. Storage of explosives is prohibited.

(F) *Glare or heat.* Any operation producing intense glare or heat shall be performed within a completely enclosed building in such manner as not to be perceptible from any property line of the lot on which the operation is located.

(G) *Land pollution.* No pollution of land by liquid waste, solid refuse, garbage, junk, auto bodies and parts, or other wastes shall be permitted.

(H) *Noise.* Noise which is determined to be objectionable because of volume, frequency or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

(I) *Odors.* No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.

(J) *Toxic or noxious matter.* No use shall, for any period of time, discharge across the boundaries of the lot wherein it is located toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property or business.

(K) *Vibrations.* Vibrations detectable without instruments on neighboring property in any district shall be prohibited.

(L) *Water pollution.* Water pollution shall be subject to the standards established by the Indiana Department of Environmental Management.

(^99 Code, ' ' 10-80C10-91) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

' 152.047 SIGNS.

(A) Signs, billboards and exterior graphic displays shall not be permitted in any district except as herein provided.

(B) No sign shall be permitted that is so placed to obstruct the vision of or from a road, intersection or interfere with parks or obstruct the view of or from a residence, school, church, public building or adjoining property owner.

(C) No sign shall be placed in the public right-of-way and must comply with established regulations of safety, as defined by the Indiana State Highway Commission, where applicable.

(D) One non-illuminated temporary sign pertaining to the lease or sale of the premises upon which it is placed and not exceeding three square feet in gross surface area is permitted without permit or fee, provided that the sign shall be removed within seven days after the consummation of the sale or lease or the termination of the agent's authority.

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(E) One non-illuminated temporary sign bearing only the street number of the property being worked on and the name of the general contractor, subcontractors, owner, during construction, repair, remodeling or landscaping, during construction work on the premises upon which they are placed, not exceeding three square feet in total gross surface area, is permitted without permit or fee. The sign shall be removed within seven days after the substantial completion of work, and in no event shall such sign be exhibited for more than six months. It is the responsibility of the general contractor to see that signage conforms with this section.

(F) A nameplate not exceeding two square feet in surface size and announcing the name and/or address of the occupant of the structure located on the lot is permitted without permit or fee.

(G) Bulletin boards or signs for a church, school, community or other semi-public building not exceeding 24 square feet in surface area are permitted upon application and approval.

(H) Business signs shall be permitted in connection with any legal business in a commercial zoned area located on the premises providing they conform to the following requirements:

(1) No part of such sign shall project into any public right-of-way; the support of such sign shall be set back at least 20 feet from any public right-of-way;

(2) Permanent signs shall not have an area greater than two square feet for each lineal foot of width of the principal structure, but shall not exceed a maximum of 100 square feet;

(3) Signs shall not contain advertising for any product not sold on the premises;

(4) Signs shall be illuminated in such a manner as to reflect away from adjoining property and shall be placed so as not to cause confusion or a hazard to traffic or traffic control lights;

(5) Pole signs of symbolic design not over 25 feet in height, shall be permitted for automobile service stations and other similar highway oriented uses provided that the support of such sign is set back at least ten feet from any right-of-way and the surface area of the sign does not exceed 40 square feet.

(^99 Code, ' ' 10-95 - 10-100) (Ord. 643, passed 3-2-98; Am. Ord. 685, passed 11-10-03) Penalty, see ' 152.999

' 152.048 OFF-STREET PARKING AND LOADING.

(A) Off-street parking spaces shall be provided in accordance with the specifications in this chapter for

all districts, whenever any new use is established or an existing use is enlarged.

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<i>Use</i>	<i>Parking Spaces</i>
Gasoline service stations	2 for each 400 sq. ft. of floor area
Churches and schools	1 for each 5 seats in principal assembly room
Residences	2 per dwelling unit
Research and testing laboratories	1 for each 2 employees on the maximum working shift, plus space to accommodate all trucks and vehicles used in connection therewith and visitor parking
Retail stores, eating establishments and personal service establishments	1 for each 150 sq. ft. of floor area
Clinics, professional offices and banks	1 for every 250 sq. ft. of floor area

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(B) Space for one vehicle shall contain at least 180 square feet, exclusive of drives and aisles.

(C) All off-street parking area shall be graded for proper drainage and surfaced so as to provide a durable and dustless surface.

(D) Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect the light away from adjoining premises.

(^99 Code, ' 10-105) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

' 152.049 NONCONFORMING USES.

(A) *Intent.* It is the intent of this chapter to provide reasonable regulations for the use of structures and land which do not conform as to area or width of lot, yard dimensions, lot coverage, height of building, use intended or other provisions of this Zoning Code and to provide for the conversion of such structures and land into conforming uses as soon as reasonably possible.

(B) *Permitted continued use.* The lawful use of any building, structure or land existing at the time of the enactment of this Zoning Code may be continued, although such use does not conform with the provisions of this Code; subject, however, to the following provisions.

(C) *Unsafe structures.* Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

(D) *Alterations and extensions.* No existing nonconforming use as defined herein shall be enlarged, extended or structurally altered, subject to the following:

(1) Repairs and ordinary maintenance work may be permitted.

(2) Interior alterations which otherwise comply with provisions of this chapter may be permitted.

(3) Exterior upgrading, such as siding, fenestration, roofing and the like may be permitted.

(4) Minor extensions, such as open or covered porches or walkways, not to exceed 10% of the total area of the principal dwelling, may be added thereto.

(5) No extensions to free-standing garages or other accessory buildings are permitted.

(6) All permitted extensions must comply with setback requirements set forth herein, and with all requirements of Article III herein.

(E) *Construction approved prior to adoption of or amendment to Zoning Code.* Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and which the entire building shall be completed according to such plans as filed within one year from date of enactment of this Zoning Code.

(F) *Destruction of nonconforming buildings.* Any nonconforming building or structure damaged less than 50% of its appraised valuation by fire, flood, explosion or other cause may be reconstructed and used as before if such reconstruction is performed within 12 months of such damage and if the restored structure has no greater coverage and contains no greater cubic content than before such damage. If such damage is greater than 50% of its appraised valuation, then such reconstruction shall conform to the regulations of this Zoning Code.

(G) *Discontinuance of a use.* A nonconforming use shall be considered discontinued when such use is discontinued for a period of one year, when the intent of the owner to discontinue the use is apparent, when it has been replaced by a conforming use or when the characteristic equipment and furnishings of the nonconforming use have been removed from the premises. Whenever the nonconforming use of a building or premises has been discontinued or changed to a more restricted use, the use of the building or premises shall not thereafter be changed back to the previous nonconforming use. The discontinuance for any period of time of land for a nonconforming outdoor advertising sign, junkyard or mobile home shall not again be utilized for a similar nonconforming use.

(H) *Changes.* Subject to the approval of the Plan Commission, a nonconforming use may be changed to another nonconforming use of the same or greater restrictions provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted or nonconforming use.

(I) *Amendments - creating nonconforming uses.* Whenever an amendment to this chapter creates a nonconforming use, including whenever the boundaries of a district are changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing or created thereby.

(J) *Temporary permits.* The Plan Commission may authorize, by written permit, for a period of not more than six months from the date of such permit, a temporary trailer or building which is incidental to the construction and development of a permitted use.

(^99 Code, ' ' 10-108 - 10-117) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

ARTICLE III. BUILDING CODE

GENERAL PROVISIONS

§ 152.060 PURPOSE AND SCOPE OF THE BUILDING CODE.

(A) *Scope of the Building Code.* The construction, alteration, addition, enlargement, repair, removal or relocation of any building, structure or appurtenance within the town shall conform to this Building Code.

(1999 Code, § 10-130)

(B) *Purpose and objectives of the Building Code.* This Building Code is enacted for the purpose that adequate light, air, convenience of access and safety from fire, flood and other dangers may be secured; that congestion in the public streets may be avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings already constructed, the most desirable use for which the land may be adapted and the conservation of property values throughout the town.

(1) The permit applicant must recognize the unique character of the natural features of Ogden Dunes and the designs submitted should preserve, insofar as possible, the dunes, natural terrain and existing contours of the town.

(2) The further purpose of this Building Code is to regulate development in hillside areas in order to preserve the town's unique visual character and promote environmentally sound design and planning. The sand dunes and hills constitute a significant natural topographic feature of the community and create a desirable setting, visible to the entire town. In order to ensure the preservation of the hillsides, the regulations of this Building Code are established to recognize that development of land in hilly or dune areas involves special considerations and unique situations which result from the slope of the land. These special considerations and unique situations include, but are not limited to, increased hazards to development from sand falls, storm water runoff and geologic hazards. In addition, steeply sloped land presents design limitations to roadways, cuts and fills, buildings and difficulties in providing public services. The following objectives shall serve as guidelines to fulfill the purpose of this Code:

(a) To protect life and property from all potentially hazardous conditions particular to hillsides, such as sand falls, storm water run-off and mass movements;

(b) To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, such as drainage swales, streams, slopes, vistas, natural plant formations and trees;

(c) To encourage innovative site and architectural design and planning in order that the development adapts to the natural terrain and is harmonious with the character of the area;

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(d) To minimize grading and cut and fill operations consistent with the retention of the natural character of the hillside;

(e) To minimize storm water runoff and erosion problems incurred by development on and off the site;

(f) To preserve, where possible, natural streams, ponds and associated vegetation;

(g) To require the retention of trees and other vegetation which stabilizes steep hillsides, retains moisture, prevents erosion and enhances the natural scenic beauty and to require additional landscaping where it is necessary for said purposes;

(h) To encourage the retention of trees and other vegetation throughout the site instead of just the periphery of the development;

(i) To encourage minimal grading, relating to the natural contour of the land, which will round off sharp angles at the top and bottom of a cut and fill slopes in a natural manner, thereby avoiding unreasonable padding or staircase effects;

(j) To provide land use densities to promote the best possible development of hillside areas in order to retain significant natural resources;

(k) To encourage road design which follows the natural topography, wherever possible, in order to minimize cutting and grading.

(^99 Code, ' 10-131)

(C) *Standards to be met.* Grading of a hillside area shall be permitted if the grading meets the following requirements:

(1) The grading will not substantially reduce the view of the surrounding area from any direction;

(2) Changes from existing grade within the land and changes to vegetation, lakes, streams and other watercourses will be the minimum required to provide buildings, basements or other foundations, and to provide driveways and walkways for access.

(^99 Code, ' 10-132) (Ord. 643, passed 3-2-98)

' 152.061 INSPECTIONS.

(A) To assure compliance with this Building Code, inspections shall be conducted by the Building Commissioner on behalf of the Plan Commission (see ' 152.200).

(B) The Building Commissioner may enter any property within the town to make an inspection for Building Code compliance and to perform duties imposed by this Building Code.

(C) The Building Commissioner may inspect any occupied property at any reasonable hour of the day and may enter the premises with the consent of the owner or an authorized representative.

(D) The Building Commissioner shall include three inspections of all new construction in which the following shall be specifically covered:

- (1) Footing locations;
- (2) Framing, plumbing and electric; and
- (3) Final inspection.

(E) The number of inspections may be reduced to one or two by the Building Commissioner should any of these inspections not be required because of the simplicity of the construction.

(F) It is the responsibility of the building contractor or owner to notify the Building Commissioner in ample time to make the inspection prior to the next additional construction.

(G) The Building Commissioner shall inform the Plan Commission of all violations of this Building Code (see ' ' 152.202 and 152.999).

(^99 Code, ' 10-136) (Ord. 643, passed 3-2-98)

' 152.062 PLANS AND SPECIFICATIONS.

(A) *Filing requirements.* Three copies of a site plan shall be submitted to the Building Commissioner, along with an application for building permit, all applicable building permit fees and an application for a certificate of occupancy (see ' 152.078). The site plan and all drawings required hereunder shall be in a scale not less than one-fourth inch equaling one foot. Site plans shall include and be accompanied by, at a minimum, site grading, slope destabilization, erosion control with all appropriate details for the preceding, elevations, a typical wall section, and floor plans with building specifications. It is to be noted that any slope stabilization system shall have a minimum design life of 40 years.

(B) *Design and structural approval.* The Building Commissioner shall submit documents that meet the requirements of this chapter to the Architectural Review Committee or Plan Commission for approval

before a building permit may be granted (see ' 152.200).

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(C) *Certification.* Site plans and specifications required pursuant to this section shall be certified by an architect or professional engineer licensed in the State of Indiana. The Building Commissioner may waive architect or engineer certification at his/her discretion if the Building Commissioner's determination of final value of the work to be performed pursuant to the building permit does not exceed \$10,000. In any event, all building sites with proposed pre- or post-development grade at or exceeding 20 degrees shall require a site plan design certified and stamped by a professional engineer licensed in the State of Indiana. Any site plan which includes a proposed retaining wall, regardless of its value, must also be certified and stamped by a professional engineer licensed in the State of Indiana.

(D) *Examination.* Within 30 calendar days, or as soon thereafter as is practical, following the filing of required plans, specifications, applications and fees with the Building Commissioner, the Architectural Review Committee or Plan Commission shall examine the plans and specifications and determine their eligibility for permit (see ' ' 152.076 and 152.200).

(^99 Code, ' ' 10-140 - 10-143) (Ord. 643, passed 3-2-98; Am. Ord. 707, passed 9-11-06)

PERMITS

' 152.075 PERMITS REQUIRED.

The following activities require a permit (see list of permits and fees in ' 152.203):
(^99 Code, ' 10-148)

(A) *Building permit.*

(1) A building permit is required before:

(a) Beginning excavation, construction, alteration, remodeling or repair of any building, appurtenance or structure;

(b) Beginning construction of any freestanding structure, fences or retaining walls;

(c) When the dollar value of division (a) and (b) above exceeds \$2,500. (Exception: all electrical and plumbing work needs a permit, subject to divisions (B) and (C) below)

(2) No building permit is required for work such as redecorating, which merely maintains the

current status of the property.
(^99 Code, ' 10-149)

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(B) *Electrical permit.*

(1) An electrical permit is required for all major electrical work and providing for the inspection of the same by the Building Commissioner or Electrical Inspector.

(2) A permit is not required for minor repair:

- (a) Replacing flush and snap switches;
- (b) Refusing cutouts;
- (c) Changing lamps, sockets, and receptacle;
- (d) Repairing drop cords.

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(3) All new electrical work and major repairs requiring a permit must be inspected.

(4) At the home owner=s request, an electrical inspection of electrical systems and devices may be scheduled by the Building Commissioner or Electrical Inspector for a base inspection fee (see ' 152.203).

(^99 Code, ' 10-150)

(C) *Plumbing permit.*

(1) A plumbing permit is required for all major plumbing work and for providing for the inspection of the same by the Building Commissioner or Plumbing Inspector.

(2) A permit is not required for:

(a) Hot water tank replacement installed by a licensed plumber;

(b) Cleaning, clearing and rodding drains;

(c) Replacing or repairing faucets;

(d) Replacing sinks, traps and toilets.

(3) All new plumbing work and major repairs requiring a permit must be inspected.

(4) At the home owner=s request, a plumbing inspection of plumbing systems and devices may be scheduled by the Building Commissioner or Plumbing Inspector for a base inspection fee (see ' 152.203).

(^99 Code, ' 10-151)

(D) *Water supply and sewage disposal permits.* A water supply permit is required through the Ogden Dunes Waterworks and a sewage disposal permit is required from the Porter County Health Department. A sewage disposal inspection is required before a certificate of occupancy permit can be issued (see ' ' 52.01 and 152.203).

(^99 Code, ' 10-152)

(E) *Driveway permit.* A driveway permit is required before work begins on the installation or construction of a driveway or parking area, using macadam, black top, concrete or other similar materials. Application for the permit shall include one set of plans and specifications which clearly describe the

proposed driveway or parking area (see ' 152.091(J) and ' 152.203). (See also ' 152.095 Drainage.) The plans shall show the following:

- (1) The area to be covered;

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- (2) Adjacent property lines;
- (3) Existing buildings;
- (4) Elevations of the area;
- (5) The type and location of the drainage system;
- (6) The materials to be used; and
- (7) The method of construction.

(^99 Code, ' 10-153)

(F) *Other permits.* For land disturbing activity permit, see ' 152.092; for tree removal permit, see ' 152.097; and for demolition permit, see ' 152.098.
(^99 Code, ' 10-154) (Ord. 643, passed 3-2-98; Am. Ord. 725, passed 5-5-08) Penalty, see ' 152.999

' 152.076 PERMIT FILING AND APPLICATION REQUIREMENTS.

(A) *Filing.* Applications for all permits (except as noted herein) shall be addressed to and filed with the Building Commissioner on forms provided by that office.
(^99 Code, ' 10-155)

(B) *Permit application requirements.*

(1) The application for a permit shall include the following:

(a) Three copies of the complete plan specifications of the proposed activities;

(b) Three copies of a current Aplat of survey@ of the lot on which the building, structure or appurtenance will be constructed. Plat of survey must show location of stakes at each corner of the lot and include elevations at each stake as related to the surveyor=s identifiable bench mark. In addition, surveyor shall record the elevations on the lot lines extended 15 feet beyond the stakes. Also, include the elevation at grade of the closest portion of any existing adjacent structure.

(2) The plans and specifications shall be complete only when all of the following are included:

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(a) A plot plan showing the exact dimensioned location of the building, structure or appurtenance in all its parts, including eaves, porches, chimneys and any other overhangs or protuberances, to all property lines, to all setback lines, and to all existing buildings and the like on the property, as well as any streets or easements bordering the property accurately drawn to scale, any proposed changes in contours, roadways, fences, retaining walls, walls, wells, surface drains, septic tanks or other installations which may affect the appearance or the use of easements, roadways or adjacent property;

(b) Foundation and basement plans and details;

(c) A floor plan for each level, accurately drawn to scale and with all important dimensions clearly given;

(d) Elevations of all exterior walls;

(e) Sections and details of walls, floors, and roof, showing dimensions, materials and R@ values of insulation;

(f) Electrical plans, diagrams, details of service entrance and power and lighting information;

(g) Plumbing plans showing location of fixtures, risers, drains and piping isometrics; and

(h) Construction specifications (may be on plans).

(3) The specifications shall clearly describe the materials intended to be used and the nature and character of the proposed construction.

(4) Specifications which use general expressions such as *in accordance with the Building Code@* or *to the satisfaction of the Building Commissioner@* do not meet the requirements of this chapter. (⁹⁹ Code, ' 10-156)

(C) *Signature.* The application for a permit shall be signed by the owner of the proposed construction. (⁹⁹ Code, ' 10-157)

(D) *Application review period.*

(1) A review period of 30 days from the date received by the Building Commissioner is required for each application prior to approval.

(2) During review by the Architectural Review Committee or Plan Commission in each case, an open list of pending applications shall be maintained for public inspection and review.

(^99 Code, ' 10-158) (Ord. 643, passed 3-2-98)

' 152.077 WORK SITE AUTHORITY; TIME LIMITS.

(A) *Work site authority.* After approval of a building permit, two sets of the approved plans and specifications shall be returned to the applicant. One copy of the approved plans and specifications shall be kept on the work site at all times that construction is in progress and shall be available for inspection by the Building Commissioner.

(^99 Code, ' 10-159)

(B) *Time limits.*

(1) The Building Commissioner shall, by certified mail to the applicant, cancel a permit if:

(a) The permit holder fails to start construction within a period of 120 days of the date the permit was issued; or

(b) The permit holder fails to proceed with the construction with reasonable diligence for any continuous period of six months, or;

(c) The permit holder fails to complete the construction within the 12 months immediately following the construction start date.

(2) After the 12-month expiration date, the permit may be re-issued upon application, for a period not exceeding an additional six months, at double the original permit fee.

(3) Any rejected applicant or the holder of an outstanding building permit may surrender it to the Building Commissioner any time before construction and may be refunded one-half the permit fee.

(^99 Code, ' 10-160) (Ord. 643, passed 3-2-98)

' 152.078 CERTIFICATE OF OCCUPANCY.

See ' ' 152.201 and 152.203.

(A) No part of a building or structure may be occupied until a certificate of occupancy has been issued by the Building Commissioner or the Plan Commission.

(B) No certificate of occupancy shall be issued until compliance has been made with all the provisions of applicable building codes and all ordinances of the Town of Ogden Dunes.

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(1) A certificate of occupancy will only be issued upon the completion of all work required to be completed pursuant to the building permit and permit process. The work required to be completed shall include, but not be limited to, all driveways, sidewalks, siding, painting, landscaping, decks, patios, etc. that are indicated on the drawings submitted and that the permit is based upon. No exceptions will be granted to the requirements set forth herein. Any work that is incomplete at the expiration of the time limitations contained in the building permit and in the Town of Ogden Dunes ordinances shall require a new application, permit and payment of applicable building permit fees.

(2) Evidence of final approval of the septic system by the Porter County Health Department is required for a certificate of occupancy and shall be supplied by the permit holder to the Ogden Dunes Building Commissioner prior to the issuance of a certificate of occupancy.

(C) Interim occupancy during construction is prohibited. Garages, basements or other parts of a partially completed building or structure shall not be occupied while waiting for completion of the building structure.

(`99 Code, ' 10-161) (Ord. 643, passed 3-2-98; Am. Ord. 697, passed 3-6-06) Penalty, see ' 152.999

CONSTRUCTION STANDARDS AND REQUIREMENTS

' 152.090 CONSTRUCTION OPERATIONS.

(A) *Duty of care.* It is the duty of the owner, contractor, builder or other person having control or supervision of a construction site to take every precaution to safeguard the public from any injury which could foreseeably occur from the condition of the building, the use of equipment or materials, an attractive nuisance or any hazard maintained on the construction site. If necessary, a fence should be erected to prevent public access to the construction area.

(B) *Sand control.* It is the duty of the owner, contractor, builder or other person having control or supervision of a construction site to prevent loose sand from blowing or sifting onto public roads or adjacent property. This requirement may be assured by providing suitable ground cover, by erecting suitable fencing or by immediate cleaning.

(C) *Construction hours.* Hours of construction are between 7:00 a.m. and 7:00 p.m. Monday through Saturday. A special permit may be granted by the Building Commissioner at his discretion, taking into consideration noise levels and traffic situations, to work at other times. This permit must be applied for at

least 48 hours in advance. No activity before 9:00 a.m. on Saturday or on Sunday, if permitted, shall generate noise which may be heard outside property lines of the construction.

(D) *Garbage and refuse disposal.* During construction, no lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in accepted container. (^99 Code, ' ' 10-165 - 10-168) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

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152.091 RESIDENCE SPACE.*(A) Floor area.*

(1) A single-story residence shall contain at least 1,400 square feet of livable floor area.

(2) A one and one-half or two-story residence shall contain at least 1,000 square feet of livable floor area on the main floor and shall contain a total of at least 1,400 square feet of livable floor area for the entire residence.

(3) For purposes of computing the livable floor area, areas occupied by a basement, garage, porch, attic, storage room, utility room or heating room shall be excluded.

(4) If 50% of the perimeter of the lower story of a raised ranch structure is exposed from the ground, the building shall be considered a two-story residence as opposed to a one-story residence.

(5) To meet the 1,400 square feet livable floor area requirements in split level houses, only the area of the top two levels shall be considered.

(6) A floor or story level within the meaning of this section is defined as a livable floor area which has at least 50% of its perimeter at floor level even with or above the outside ground level.

(B) Bathroom. A bathroom shall have aggregate glazing area in windows of not less than three square feet, one half of which must be openable, except glazed areas shall not be required where artificial light and an approved mechanical ventilation system capable of producing a change of air every 12 minutes are provided. Bathroom exhausts shall be vented directly to the outside.

(C) Basements.

(1) A basement shall have ventilating windows or glazed doors with a total glass area of at least 4% of the basement floor area for the first 1,000 square feet, plus 1% of the basement floor area exceeding 1,000 square feet.

(2) Direct access from the basement to the outside shall be provided by a door or a window which has an openable area of at least 30 inches wide and 36 inches high.

(D) Storage space.

(1) Each bedroom in a residence shall contain at least 60 cubic feet of storage space.

(2) A residence shall contain at least 600 cubic feet of storage space in addition to the minimum bedroom closet requirement. Storage space may not measure less than four feet in clear height. The following may be included in meeting the 600 cubic feet requirement:

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(a) That portion of each bedroom closet which exceeds the 60 cubic feet requirement;

(b) Closets other than bedroom closets; and

(c) Space within an attached garage, other than the vehicle parking area, if the space is separately enclosed and fitted with a door.

(E) *Heating unit space.* The space containing the heating unit or system shall provide adequate clearance for maintenance and repair.

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(F) *Ceiling height.* Room ceilings shall have a height of at least eight feet. Rooms on a second floor with a sloping ceiling line shall have a ceiling height of at least eight feet over at least one half of the floor area of that room.

(G) *Windows.* All windows must be in compliance with the State Building Code specifically regarding mechanical capacity and as follows:

(1) Habitable rooms shall have windows in the outside walls to provide natural light and ventilation. To provide natural light, the total glass area in windows, skylights and in outside doors shall equal at least 10% of the floor area of that room; and

(2) To provide ventilation, habitable rooms shall have windows, louvered grills or a mechanical ventilating system. The unobstructed ventilation area of the windows or louvered grills shall be openable to an area equal to at least 5% of the floor area of that room. Door areas may be included in meeting this requirement, provided that appropriate screening is specified.

(H) *Doors.* The height of all outside doors shall be at least six feet eight inches and at least three feet wide.

(I) *Attics.* Access to attics shall be provided by means of scuttles or by disappearing or built-in stairways.

(J) *Driveways and parking areas.*

(1) An area adequate for the off-street parking of at least two motor vehicles or 180 sq. ft. exclusive of drives or aisles on the private property shall be provided at each building.

(2) A driveway or parking area shall be constructed of materials and in such a manner which prevents sand, stone, cinders or other ground material from being washed, thrown or carried onto public roads.

(3) A driveway or parking area which slopes toward a public road shall be constructed with a suitable drainage system on the property of the owner to prevent water from running or draining from the driveway or parking area onto public roads. Grated drainage systems shall be designed to cross no less than 80% of the driveway width and shall be located at the lowest drainage point. Grated or other drainage systems shall be connected to dry wells or provided with gravel for absorbing run-off.

(4) If drainage control will be enhanced and if approval of the Town Council is applied for

and received in writing, the required drainage system may be installed on public property in accordance with the approved plans.

(5) Any driveway shall meet the paved portion of the town street at an elevation no higher than the street elevation at that point and extend back toward the building owner=s property at or below this elevation for a minimum distance of three feet.

(K) *Run-off*. Roofs, walkways and other elements of construction that contribute to run-off shall be designed and installed to prevent run-off onto public roads and onto other public and private properties. ('99 Code, ' ' 10-174 - 10-184) (Ord. 643, passed 3-2-98; Am. Ord. 669, passed 5-7-01) Penalty, see ' 152.999

' 152.092 LAND DISTURBING ACTIVITIES.

(A) *Purpose*. This chapter is enacted to preserve the natural terrain and contours, to regulate and control drainage and the blowing of sand, to prevent erosion and to protect adjacent property from damage resulting from land disturbing activities.

('99 Code, ' 10-188)

(B) *Regulated land disturbing activities*.

(1) No person shall engage in any land disturbing activity until such plan has been submitted to the Building Commissioner and has been reviewed and approved.

(2) Whenever a land disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to construction contract, the preparation, submission and approval of a plan shall be the responsibility of the owner of the land.

('99 Code, ' 10-189)

(C) *Land disturbing activity plans*.

(1) An application for a permit for a land disturbing activity shall be made through the Building Commissioner on the application form prescribed by the town. Applications for any such permit shall include the following in addition to the requirements in ' 152.075(G) above.

(a) A general description of streets, highways or other landmarks in the immediate area surrounding the proposed land disturbing activity.

(b) A description of what shall be done to the property and location.

(c) An accurate estimate of the amount of sand or other natural or man-made material in cubic yards expected to be excavated, graded, filled or transported during the life of the permit.

(d) A statement explaining in detail the protection and precautionary methods to be employed

by the applicant to prevent the natural or man-made material from blowing over or spilling upon other private or public property in the immediate area of the project.

(2) *Permit conditions.*

(a) The Building Commissioner may impose any specifications or special conditions in the granting of a land disturbing activity permit, that in his or her opinion may be required for the protection of public health, safety and welfare. Any specifications or special conditions shall be in writing and shall be attached to the permit itself and shall be a part of the permit granted.

(b) When sand or other natural or man-made materials are to be added or removed or moved in connection with the construction, alteration of structures or for accessory uses, approval by the Building Commissioner shall be required. Construction drawings, plat plans and when deemed necessary, topographic maps shall be presented to the Building Commissioner for review.

(3) Any changes in the approved plan must be submitted to and approved by the Building Commissioner in writing.

(^99 Code, ' 10-190)

(D) *Bond.*

(1) The applicant shall be required to post a liability bond payable to, and satisfactory to, the town prior to the issuance of any permit. A cash escrow or other such legal arrangement, as approved by the town, may be used. The amount of the bond for each applicant shall be not less than \$1,000 nor more than \$5,000 as determined by the Building Commissioner; or any excess amount deemed necessary based on the project shall be determined by the Town Council.

(2) In the event of damage to private or public property in the immediate area of excavation or fill site, the town is authorized to declare a forfeiture of the bond or other financial arrangement posted by the applicant and collect the amount of damages for payment to the damaged party.

(^99 Code, ' 10-191)

(E) *Exemptions.* For the following listed exceptions, no permit or bond or other such financial arrangement shall be necessary, but all other provisions of this chapter pertaining to the protection of private or public property in the immediate area of the land disturbing activity shall remain in full force and effect:

(1) Sand or other natural or man-made materials which is removed or moved in cases involving public health and safety.

(2) Sand or other natural or man-made materials which are moved or in connection with the

installation or repair of public utilities, street grading, sewer installation or other public purpose.

(3) All cases where the aggregate volume of land, black dirt or other natural or man-made material excavated, filled, graded or transported within any period of 365 days does not exceed ten cubic yards.

(^99 Code, ' 10-192) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

152.093 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS.

(A) *Connections to town water distribution system.* A building or structure which is to be used for human habitation, for business purposes or for commercial uses shall be connected to the town water distribution system.

(^99 Code, ' 10-198)

(B) *Sewage disposal permit.* Before applying for a building permit, the owner shall obtain a permit from the Porter County Board of Health or Indiana State Board of Health to construct a private sewage disposal system.

(^99 Code, ' 10-199)

(C) *Residential.* A private single-family residential sewage disposal system shall be installed, constructed and maintained in an improved manner as currently required by the Indiana State Board of Health and the Porter County Board of Health. No certificate of occupancy shall be issued until the owner has filed with the Building Commissioner a satisfactory sewage disposal inspection report.

(^99 Code, ' 10-200) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

152.094 BUILDING REGULATIONS.

(A) *Standards.* All work on the construction, alteration and repair of buildings and other structures shall be performed with good craftsmanship according to accepted standards and practices of the various trades.

(^99 Code, ' 10-208)

(B) *Adoption of regulations by reference.*

(1) Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

(a) Article 13 - Building Codes.

1. Fire and Building Safety Codes.

2. Indiana Building Code.

3. Indiana Building Code Standards.
4. Indiana Handicapped Accessibility Code.

- (b) Article 14 - One and Two Family Dwelling Codes.
 - 1. Council of American Building Officials One and Two Family Dwelling Code.
 - 2. CABO One and Two Family Dwelling Code; Amendments.
 - 3. Standard for Permanent Installation of Manufactured Homes
- (c) Article 16 - Plumbing Codes. Indiana Plumbing Code.
- (d) Article 17 - Electrical Code. Indiana Electrical Code.
- (e) Article 18 - Mechanical Code. Indiana Mechanical Code.
- (f) Article 19 - Energy Conservation Codes.
 - 1. Indiana Conservation Codes.
 - 2. Modifications to the Model Energy Code.
- (g) Article 20 - Swimming Pool Codes. Indiana Swimming Pool Code.

(2) Copies of the towns=s adopted building rules, codes and standards are on file in the office of the Clerk-Treasurer.

(^99 Code, ' 10-209)

(C) *Underground utilities.* All utility services for new construction begun after the effective date of this chapter shall be buried under the ground in accordance with the standard practice governing each utility. This shall include sewers, gas, water, electricity, cable television and telephone.

(^99 Code, ' 10-210)

(D) *State authority.* All plans for building construction under the authority of the Fire Prevention and Building Safety Commission of the State of Indiana must also be filed with the State Building Commissioner.

(^99 Code, ' 10-211)

(E) *Review of application.* Prior to the issuance of any building permit herein, the Building Commissioner shall have:

(1) Reviewed such application to determine full compliance with all provisions of this Building Code and this chapter;

(2) Obtained approval of the Architectural Review Committee or the Plan Commission, in accord with ' 152.200(B); and

(3) Wherever deemed necessary, consulted with the Environmental Advisory Board.
(^99 Code, ' 10-212)

(F) *Right of appeal.* All applicants shall have the right to appeal to the Board of Zoning Appeals (see ' 152.201(C) and ' 152.204).
(^99 Code, ' 10-213) (Ord. 643, passed 3-2-98)

' 152.095 DRAINAGE.

(A) *Drainage construction materials.* A driveway or parking area shall be constructed of materials and in such a manner which prevents sand, stone, cinders or other ground materials from being washed, thrown or carried onto public roads.
(^99 Code, ' 10-218)

(B) *Suitable drainage system.* A driveway or parking area which slopes toward a public road shall be constructed with a suitable drainage system on the property of the owner to prevent water from running or draining from the driveway or parking area onto public roads. Grated drainage systems shall be designed to cross no less than 80% of the driveway width and shall be located at the lowest point. Grated or other drainage systems shall be connected to drywells or provided with gravel for absorbing run-off. Residents shall be responsible for maintenance.
(^99 Code, ' 10-219)

(C) *Installation of drainage system.* If drainage control will be enhanced and if approval of the Town Council is applied for and received in writing, the required drainage system may be installed on public property in accordance with the approved plans.
(^99 Code, ' 10-220)

(D) *Responsibility of homeowner.* It is the responsibility of the home owner to ensure that all run-off from roofs, drives, walks, patios or any other man-made services do not drain onto adjacent public or private property.

(1) Because of drainage problems, no private party shall pave adjacent public property, except for driveway access, and this not to exceed 22 feet wide.

(2) Every effort shall be made by the home owner to maintain and encourage natural drainage.

(3) Plans shall include a designed drainage system to handle a one-inch rainfall in a two-hour

period.

(`99 Code, ' 10-221) (Ord. 643, passed 3-2-98)

• **152.096 SLOPE STABILITY.**

(A) *Plans or specifications.* Plans or specifications submitted for any building permit will include the design for any necessary sand (ground mass) retention system. The drawings shall clearly show the ground surface areas that have or will have a slope greater than 20 degrees with the horizontal.

(^99 Code, ' 10-229)

(B) *Slope greater than 20 degrees.* Any stabilization or retention system (walls, piling and the like) applications where the ground surface slope is greater than 20 degrees shall have a minimal design life of 40 years, and the design shall be approved by an Indiana-registered professional engineer.

(^99 Code, ' 10-230) (Ord. 643, passed 3-2-98; Am. Ord. 717, passed 8-13-07)

• **152.097 PRESERVATION OF NATURAL FEATURES.**

(A) *Conservation of natural resources.* The purpose of this section is to conserve the land, water and other natural resources of Ogden Dunes and to promote the public health and welfare, of the people by establishing requirements for the control of erosion and sedimentation and by establishing procedures whereby these requirements shall be administered and enforced. This chapter recognizes the unique terrain, soil and topography of Ogden Dunes which is peculiarly vulnerable to environmental impact, such as: slope damage, live and moving dunes, blowing sand, erosion and inability to easily restore vegetation.

(^99 Code, ' 10-236)

(B) *Slope control.* No structure, planting or other material shall be placed or permitted to remain or be removed or other activities undertaken which may damage or interfere with established slope terrain or vegetation of adjoining property, create erosion or cause water drainage problems or which may change water drainage or obstruct or retard the flow of water. Each lot and all improvements in them shall be maintained in compliance with this ordinance continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

(^99 Code, ' 10-237)

(C) *Restrictions on tree removal in conjunction with building permit and generally.*

(1) Trees are declared to be beneficial public resources. To that end, it shall be unlawful to cut down, damage, poison or in any other manner, destroy or cause to be destroyed any trees covered by this chapter, except in accordance with the provisions herein.

(2) A permit is required to remove or transplant any tree with a trunk diameter of three inches or

more. Written application and fee listed in ' 152.203 is required with the site plan sufficient to make determination. The site plan shall show the following information at a scale sufficient to enable the determination of matters required under these regulations:

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(a) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of structures and improvement, if any;

(b) Locations of all trees with size shall be identified. Mark trees to be removed or transplanted;

(c) All trees to be retained shall be so identified by some method, such as painting, flagging and the like prior to field inspection, if required.

(3) The permit is valid for four months.

(4) Criteria for tree removal permit.

(a) The tree is located in an area where a structure or improvements will be placed according to an approved plan, it unreasonably restricts the economic enjoyment of the property, and the tree cannot be relocated on the site because of age, type or size of the tree.

(b) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision clearance, conflicts with other ordinances or regulations or is a nonprotected tree such as the female populus (cottonwood).

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(5) The Building Commissioner, upon a determination that an application is to be denied, shall state the basis for such denial specifically and shall notify the applicant of the criteria upon which denial is predicated.

(6) Replacement of trees. When any trees are removed from any lots, a minimum number of replacement trees will be required based on the following square footage areas:

<i>Tree Replacement Requirements</i>	
<i>Lot Size Square Footage</i>	<i>Minimum Replacements</i>
3,500 - 7,500	4
7,500 - 10,000	6
Over 10,000	8

(7) Tree protection during construction. It shall be unlawful for any person in the construction of any structures or other improvements to place solvents, material, construction machinery or temporary soil deposits within six feet or two-thirds of the drip line, as defined herein, whichever is greater, of any tree trunk having a three-inch or greater d. b. h. above grade.

(8) In case of emergencies, such as windstorm, flood, freeze or other disasters, the requirements of these regulations may be waived by the Building Commissioner.

(9) In addition to the penalties otherwise provided herein, any person who violates any provision of this chapter shall forfeit and pay to the town a civil penalty equal to the total value of those trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula. The sum shall accrue to the town and may be recovered in a civil action brought by the town. The sum so collected shall be placed in a special fund and shall be expended for the purchase of tree(s) for placement in public properties in the town. Replacement of illegally removed trees may be required as restoration in lieu of money. This replacement will be computed on an inch-for-inch ratio based on the total diameter measured at d.b.h. in inches of the illegally removed trees. A combination of money and tree replacement may be required.

(10) Tree removal companies: construction companies. All provisions of this Building Code shall apply to any person removing trees on behalf of any other person, including all tree removal construction companies or persons in the business of removing trees or constructing. It shall be unlawful for any person or company to remove or cause to be removed any tree, or undertake any work for which a permit is

required pursuant to this section, unless a valid permit therefor is in effect and is displayed in accordance with the provisions of this section. If any such work or removal is performed without the permit being displayed as required by this section, such removal or work shall constitute a violation of this section and shall subject the person or company violating this section to all penalties provided herein.

(11) The applicant shall prominently display on the site the permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit, and for ten days thereafter. As a condition for the issuance of the permit, the applicant shall agree in writing to entry onto his premises by representatives of the town and all law enforcement officers to inspect the permit at any time and such entry shall be lawful. Failure to allow such entry shall be unlawful, shall constitute a violation of this section and shall constitute failure to display the permit as required under this section.

(12) Destruction or removal of trees from public property. No person shall cut down or otherwise destroy any tree on any town parkway, street right-of-way, park or on any land belonging to the town, without obtaining written permission from the Building Commissioner.

(^99 Code, ' 10-238) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

' 152.098 DEMOLITION.

(A) *Permits.* The contractor or owner shall obtain all necessary permits before starting any demolition work. The permit shall be issued for a period of 30 days. All work must be completed in 30 days unless extended for a period not to exceed 30 days by the Building Commissioner (see ' 152.203).

(^99 Code, ' 10-244)

(B) *Safety.* The contractor must use care in removal of buildings. Hand methods shall be used if required by the Building Commissioner, and the area appropriately secured for safety purposes.

(^99 Code, ' 10-245)

(C) *Procedure for demolition.*

(1) The contractor or owner shall disconnect from service and securely plug the existing house sewer/septic line. The sewer shall be sealed watertight with a concrete plug and marked for future identification.

(2) The work shall be continued to completion promptly and expeditiously.

(3) The contractor or owner shall remove all concrete slabs, sidewalks within the property, sidewalks in the public right-of-way, basement walls, footings, drain pipes, storage tanks, and any debris encountered within the excavation area, except septic system.

(4) The hole shall not be filled until inspection and approval by the Building Commissioner.

(5) The hole must be filled with clean sand, brought up to grade and planted with appropriate vegetation to prevent erosion.

(^99 Code, ' 10-246) (Ord. 643, passed 3-2-98) Penalty, see ' 152.999

152.099 CONTRACTOR REGISTRATION.

(A) Contractor licensing. Any building contractors, general contractors, and subcontractors doing business within the Town of Ogden Dunes must be licensed in accordance with the following provisions:

(1) Electrical and plumbing/HVAC contractors will always require a license.

(2) Licensing requirement for all contractors and subcontractors, performing work within the Town of Ogden Dunes shall include proof of holding a license in good standing from the following communities or counties in Northwest Indiana, or the City of Chicago, Illinois:

- | | |
|----------------------|-----------------------|
| City of Chicago | City of Hobart |
| City of Lake Station | Town of Merrillville |
| Town of Munster | Town of Schererville |
| City of South Bend | Town of St. John |
| Lake County, IN | St. Joseph County, IN |

(a) General contractors are required to provide a list of all subcontractors working on each project. This list is required to be filed prior to commencing work on any project. Changes in subcontractors must be made in writing, prior to commencing work to be performed by the subcontractor.

(b) Any contractor employing an unlicensed subcontractor will have its contractor=s license suspended in the Town of Ogden Dunes until compliance is achieved and all applicable fines are paid. Additionally, work shall be stopped on the project for a violation of this section.

(c) Inspections will not be performed on work completed by an unlicensed contractor.

(3) Whenever a building trades contractor is contracting directly with the homeowner (not working for a licensed General Contractor) the building trade contractor is required to have a license. (99 Code, 10-250)

(B) Licensing and renewal fees. Each such contractor shall submit an application for a license, on a form provided by the Clerk-Treasurer, accompanied by an application fee in the amount specified in 152.203. The license shall expire annually on December 31 each year.

(1) Each contractor and/or subcontractor shall renew his or her license annually, not later than January 30. Renewal fee for the license shall be in the amount specified in 152.203.

(2) Each contractor and/or subcontractor who fails to renew by the thirtieth day of January of each year must submit a late renewal application for licensing, accompanied by a fee in the amount specified in ' 152.203.
(^99 Code, ' 10-251)

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(C) *Insurance.* General contractors and/or subcontractors shall furnish proof of insurance satisfactory to the town showing compliance with the Indiana Workers Compensation and Occupational Disease laws.

(1) Contractor shall also provide: Certificate of Insurance showing coverage limits of \$500,000 per occurrence with a yearly aggregate coverage of \$1,000,000.

(2) Unified License Bond in an amount equal to \$5,000. This bond must be recorded and filed with the County Recorder.

(3) Proof of Worker=s Compensation Insurance coverage for all employees.
(^99 Code, ' 10-252)

(D) *Homeowner licenses.* Homeowners are not required to be licensed to perform work on their property. Homeowners who hire unlicensed contractors do so at their own risk. The town cannot protect homeowners against fraud, poor workmanship, or damage to their property, neighboring property, or town property.

(^99 Code, ' 10-253) (Ord. 643, passed 3-2-98; Am. Ord. 697, passed 3-6-06) Penalty, see ' 152.999

ARTICLE IV. SUBDIVISION CONTROL

GENERAL

' 152.115 AUTHORITY.

These subdivision control regulations are minimum standards for land development and are adopted by ordinance passed by the Town Council of the Town of Ogden Dunes, Indiana, under authority granted in Chapter 174, Acts of 1947, and all Acts amendatory thereto, General Assembly of the State of Indiana.

(Ord. 402, passed 8-25-69)

▪ **152.116 SHORT TITLE.**

These subdivision control regulations shall be known and may be cited as the *Subdivision Control Regulations of Ogden Dunes, Indiana*, hereinafter known as Subdivision Regulations, and as amended, thereafter.

(Ord. 402, passed 8-25-69)

152.117 PURPOSE.

These Subdivision Regulations are adopted to secure and provide for:

(A) The implementation of the Master Plan;

(B) The proper arrangement of streets or other highways in relation to existing or planned streets or highways or to area plans;

(C) Adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light, air and for the avoidance of congestion of population;

(D) The protection of owners against depreciation of value, and preservation of the natural beauty of the town; and

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(E) Logical procedures for the achievement of these purposes.

(Ord. 402, passed 8-25-69)

Cross-reference:

Master Plan, see Chapter 150

▪ **152.118 ESTABLISHMENT OF CONTROL.**

No plat or replat of subdivision of land located within the jurisdiction of the Plan Commission shall be recorded until it shall have been approved by the Plan Commission, and such approval shall have been entered in writing on the plat by the President and Secretary of the Plan Commission.

(Ord. 402, passed 8-25-69)

▪ **152.119 DEFINITIONS.**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning. These terms are in addition to the definitions set forth in ' 152.002, which also apply to this article.

COUNTY. Porter County, Indiana.

IMPROVEMENTS. Street pavements, with or without curb or gutter, side walks, crosswalks, water mains, sanitary and storm sewers, street trees and other appropriate items.

INVERTED CROWN. A road in which the center is constructed to be lower by one to two inches than the outer edges, so designed that water will collect and run down the middle of the road.

KEY (LOCATION) MAP. A drawing at a reduced scale located on the preliminary plat which shows, legibly, by dimension and/or other means, enough area beyond the bounds of the proposed subdivision to locate and properly orient the subdivision within the town and the relationship of the site to the drainage area of which the proposed subdivision is a part, to existing or proposed major streets, and to other factors or facilities which serve or influence the property.

LOT, INTERIOR. A lot other than a corner lot.

PERCENT OF GRADE. The relationship between one foot of incline to each 100 horizontal feet, expressed as a percentage.

PLAT, FINAL. A map of land subdivision prepared in a form suitable for filing for record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land, and with other such requirements as defined by these Subdivision Regulations.

PLAT, PRELIMINARY. A map of a proposed land subdivision, showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision which is submitted to the Plan Commission for consideration and tentative approval.

STANDARD SPECIFICATIONS. The Standard Specifications of the State Highway Commission of Indiana, 1963, or any subsequent amendments thereto.

ZONING ORDINANCE. The part of the Master Plan, now or hereinafter adopted, which includes an ordinance and zone map, which divides the jurisdictional area of the Plan Commission into districts, with regulations and requirements and procedures for the establishment of land use controls. The Zoning Regulations are contained in ' ' 152.015 through 152.049 (Article II) of this chapter.
(Ord. 402, passed 8-25-69)

PROCEDURES FOR SUBDIVISION APPROVAL

152.130 PREAPPLICATION PROCEDURE.

Prior to the preparation of the preliminary plat of a subdivision in order to conserve time, effort, and expense, the owner or subdivider shall submit to the Plan Commission or to a designated official, at an early informal consultation, a sketch plan of the proposed subdivision. This informal consultation will enable the subdivider to become familiar with the requirements of these and other regulations as they affect the area. The subdivider should not submit a preliminary plan drawing at this time.

(A) *Sketch plan requirements.* The sketch plan shall include a description of the boundary in relation to the nearest existing public street and other pertinent information relative to location, environment and available services. The plan may be freehand in sketch form and in pencil, but it shall show the proposed layout of streets, lots and other features in relation to existing conditions. Sufficient topographic data must be presented for the Plan Commission to consider and evaluate the proposed sketch plan. The sketch plan shall not be deemed a preliminary plat.

(B) *Sketch plan approval.* Within 30 days, or within such further time as the applicant may agree to, the Plan Commission or designated official shall inform the subdivider that the plans and data do or do not meet the objectives of these Subdivision Regulations. If the plans do not meet the objectives of these regulations, the Plan Commission shall express the reasons therefor.

(C) *Sketch plan fee.* The informal consultation and sketch plan shall not require a formal application, fee, or filing of a preliminary plat.
(Ord. 402, passed 8-25-69)

• **152.131 PROCEDURES FOR CONDITIONAL APPROVAL OF PRELIMINARY PLAT.**

On reaching conclusions, informally, as recommended in ' 152.130 above, regarding his or her general program and objectives, the subdivider shall have prepared a preliminary plat, together with plans and specifications of improvements, as specified in division (A) below, for submission to the Plan Commission.

(A) *Preliminary plat requirements.* The preliminary plat shall be drawn at a scale of 100 feet to one inch or larger and shall contain or be accompanied by the following information:

(1) *Description.*

(a) Key map (see ' 152.119 - Definitions) showing the location of the tract;

(b) Scale, north point and date;

(c) The proposed name of the subdivision.

(d) The name and address of the owner(s) of record, the subdivider, and the registered engineer or land surveyor preparing the plat.

(2) *Existing conditions.*

(a) Boundary line of proposed subdivision indicated by solid heavy line;

(b) Location, width and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings or structures, and section and municipal corporation lines, within or adjacent to the tract;

(c) Existing drainage ditches, sewers, water mains, culverts, or other underground facilities within and adjacent to the tract, indicating pipe sizes, grades and exact locations, as obtained from public records;

(d) Boundary lines of adjacent unsubdivided and subdivided land, showing the owners' names or the subdivision title;

(e) Existing zoning of proposed subdivision and adjacent tracts;

(f) Topography data in the form of a contour map, either on a separate sheet or on the

drawing itself, with the contours based on a fixed and easily recognized datum, at not more than five feet nor less than one foot vertical intervals as required by the Plan Commission.

(3) *Proposed conditions.* (See ' ' 152.145 - 152.152 - Subdivision Design Standards, and ' ' 152.165 through 152.171 - Improvements.)

- (a) Layout of streets, indicating proposed street names and widths, and also the widths and location of alleys, crosswalks and easements.
- (b) Layout, number and approximate dimensions of lots.
- (c) Building setback lines showing dimensions.
- (d) Indication of parcels of land intended to be dedicated or set aside for public use or for the use of property owners in the subdivision.
- (e) The location, layout, type and proposed size of water mains, sanitary sewer mains, sub-mains and laterals, storm sewers, culverts and drainage structures, and street improvements.
- (f) A draft of the protective covenants or private restrictions to be adopted in the final subdivision plat.

(B) *Application and fee.* Three copies of the preliminary plat and supplementary material specified shall be submitted to the Plan Commission with written application for conditional approval. Such application shall be accompanied by an application fee of \$250 plus \$5 for each of the lots included in the proposed subdivision. Such application fee shall be payable to the Clerk-Treasurer and will be applied toward the costs of checking and verifying the proposed plat and supplementary material.

(C) *Acceptance of application and preliminary plat.* Upon receipt of the application, preliminary plat and required supplementary material, the Plan Commission shall, within 60 days, review such application for its conformance with the provisions of these Subdivision Regulations and shall accept or return it to the subdivider with its recommendations for changes or additional information which shall be necessary before the Plan Commission will hold a public hearing on the preliminary plat. The Plan Commission shall not be required to consider an application at a meeting if such application has been made less than four days prior to such meeting. The preliminary plat must be accompanied by the written approval of the proposed plat as suitable for private sewage disposal by the Porter County Board of Health.

(D) *Public hearing.* Upon its acceptance of the application and its notification in writing to the subdivider of such acceptance, the Plan Commission shall set a date for a public hearing on the proposed preliminary plat. The Plan Commission shall notify, in writing, the subdivider of the hearing date and shall also notify, by general publication or otherwise, as prescribed by the State Enabling Legislation, any person or governmental agency having a probable interest in the proposed plat. The cost of publishing such legal notification shall be borne by the subdivider.

(E) *Conditional approval.* Following the public hearing on the preliminary plat, the Plan Commission shall notify the subdivider, in writing, that it has approved the preliminary plat, and is ready to receive the final plat; or notify the subdivider of any changes deemed necessary as a result of the public hearing before such approval can be granted. Such approval is only conditional, involving merely

an acceptance of the layout as submitted, and in no way constitutes approval by the Plan Commission of the final plat which is required before any lot can be recorded.

(Ord. 402, passed 8-25-69; Am. Ord. 441, passed 8-26-74)

▪ **152.132 PROCEDURES FOR APPROVAL OF FINAL PLAT.**

After approval of the preliminary plat by the Plan Commission, and upon the fulfillment of the requirements of these Subdivision Regulations, the subdivider shall proceed to submit three copies each of the final plat, plan and specifications for improvements, and other required material, within one year after the date of conditional approval of the preliminary plat; otherwise, it will be considered void unless an extension is requested by the subdivider and granted by the Plan Commission. Such submission of the final plat shall be made to the Plan Commission at least 45 days prior to the meeting at which final consideration is desired.

(A) *Final plat requirements.* The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute all or any portion of the approved preliminary plat, provided, however, that such portion conforms to all requirements of these Subdivision Regulations.

(1) *Drafting.* The original drawing of the final plat shall be drawn on tracing cloth or drafting film with permanent water-proof black drawing ink, to a scale of 100 feet to one inch, or larger. If more than two sheets are required for the plat, the key map on the first sheet shall show the number of the sheet for each area.

(2) *Plat contents.* The final plat shall show the following:

(a) Name of subdivision;

(b) Location by section, township and range, or by other legal description;

(c) Name of town, county and state;

(d) Scale, north point and date;

(e) The name and certification of the registered professional engineer or land surveyor;

(f) The location and description of all section corners and permanent survey monuments in or near the tract, to at least one of which the subdivision shall be referenced; the location, type, size and

material of all monuments and lot markers as required in ' ' 152.165 through 152.171 Improvements;

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(g) All dimensions, linear and angular, boundary locations, lots, streets, alleys, easements and areas for public or private use expressed in feet and hundredths thereof; total length of streets in subdivision from centerline to centerline; the number of acres of each reserve, park, playground and other public area;

(h) The boundary lines of the area being subdivided in heavy lines with accurate distances and bearings, and the location of all common boundary corners of all adjoining lands and adjacent streets and alleys with their widths and names. The names of adjoining subdivisions and the names of record owners of adjoining parcels of unplatted land;

(i) The property lines of all proposed streets and alleys with their widths, names, bearings and centerline measurements;

(j) The accurate boundary lines of all grounds for public use, the acreage of the same, and with the area marked APublic;@

(k) All lot lines with as many bearings as necessary to describe each line and an identification system of lots, blocks and other areas. The blocks should be numbered consecutively throughout the entire subdivision plat and the lots numbered consecutively throughout each block, with areas to be excluded from platting marked AReserved@ or ANot a Part;@

(l) Easements for public use, services or utilities and their dimensions shown by light, dashed lines;

(m) Deflection angles, arc lengths, radii, tangent lengths and points of tangency for all curvilinear street centerlines. Deflection angles, arc lengths, radii, chord lengths and bearings and points of tangency for all curvilinear property lines and radii for all rounded corners;

(n) Building setback lines, with dimensions;

(o) Key map;

(p) Proper acknowledgment of consent to plat restrictions by all parties having any record, legal right, title or interest in the property;

(q) The following which shall be made and accompanied by or shown on the plat:

1. Owner=s certificate and dedication, signed;

2. Engineer=s or land surveyor=s certificate of survey, signed, and his or her seal;
3. Certificate for release of mortgage for any portion dedicated to the public;

4. Reference to any separate instruments, including restrictive covenants, filed in the Office of the County Recorder which directly affect the land being subdivided;
5. Certificate of Plan Commission approval;
6. Certificate of Town Council=s acceptance of streets, , alleys, easements, and public land dedications;
7. Certificate of Town Attorney approving plat as to legality and form;
8. Certificate of licensed engineer, licensed surveyor, qualified sanitarian, or a professional consulting soil scientist, certifying (when required) that the soil suitability survey or percolation tests are true.

(B) *Final plat approval.*

(1) When the final plat is submitted to the Plan Commission, it shall be accompanied by a notice from the Town Council, stating that there has been filed with and approved by that body, one of the following:

(a) A certificate by a registered professional engineer or land surveyor stating that all improvements and installations for the subdivision required for its approval have been made or installed in accordance with specifications; or

(b) A bond which shall:

1. Run to the Town Council of Ogden Dunes, Indiana;
2. Be in an amount determined by the Plan Commission to be sufficient to complete the improvements and installations in compliance with these Subdivision Regulations;
3. Be with corporate surety satisfactory to the Plan Commission, and
4. Specify the time for the completion of the improvements and installations, but in no event longer than two years from the date of approval of the final plat.

(2) Upon the completion of these improvements and installations required of a subdivider for the approval of a final plat, and prior to the acceptance thereof for public maintenance by the Town Council,

the subdivider shall provide a two-year maintenance bond which shall:

(a) Run to the Town Council;

(b) Be in an amount equal to 20% of the cost of the improvements and installations as estimated by the Plan Commission;

(c) Provide corporate surety satisfactory to the Plan Commission;

(d) Warrant the workmanship and all materials used in the construction, installation and completion of the improvements and installations to be of good quality and to have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of these Regulations and the satisfactory plan and specifications therefor;

(e) Provide that for a period of two years after the installations and improvements have been completed or are accepted for public maintenance by the Town Council the subdivider will, at his or her own expense, make all repairs to the improvements and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials;

(3) Any funds received from such bond or bonds shall be used by the Town Council for the completion of the improvements and installations for which such bond or bonds were provided, and without prior appropriation;

(4) When the final plat is submitted to the Plan Commission, it shall be accompanied by the protective covenants or private restrictions in the form for recording;

(5) Within a reasonable time after application for approval of the final plat, the Plan Commission shall approve or disapprove it. If the Plan Commission approves, it shall affix the Commission's seal upon the plat, together with the certifying signature of its president and secretary. If it disapproves, it shall set forth the reasons for such disapproval in its own records and provide the applicant with a copy;

(C) *Recording.* The subdivider shall present the final plat, which has been approved by the Plan Commission, with endorsements and required certificates shown thereon, to the County Recorder within 90 days following the date of approval, or the approval shall expire and shall be of no effect until subsequently reinstated. No lots shall be sold from such plat until approved by the Plan Commission and duly recorded in the office of the County Recorder.

(Ord. 402, passed 8-25-69)

SUBDIVISION DESIGN STANDARDS

152.145 GENERAL.

(A) The subdivision plan shall conform to the principles and standards which are generally exhibited in the master plan, including the zoning ordinance.

(B) No land shall be subdivided for residential use, if such land is considered by the Plan Commission to be unsuitable for such use by reason of flooding or improper drainage, topography or

other features which may be harmful to the health, safety and welfare of future residents and the community as a whole.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

' 152.146 STREETS.

(A) General.

(1) The arrangement, character, extent, width, function and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. (See ' 152.152, Natural Features.)

(2) Where a street plan is not shown, the arrangement of streets in a subdivision shall either:

(a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or

(b) Conform to a plan for the neighborhood approved or adopted by the Plan Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

(B) Arrangement.

(1) Local streets shall be so designed as to avoid four-way intersections.

(2) The street layout shall make provision for the proper projection and continuance of streets into adjacent, unsubdivided acreage where it is deemed appropriate and desirable by the Plan Commission. Reserve strips controlling access to streets shall be prohibited.

(3) Where a plat to be submitted includes only a part of the tract owned by the subdivider, the Plan Commission may require a sketch of a tentative future street system for the unsubdivided portion.

(C) Alignment.

(1) *Horizontal.*

(a) *Jogs.* No street layouts with centerline offsets of less than 125 feet shall be permitted.

(b) *Angle of intersection.* Streets shall be laid out so as to intersect as nearly as possible at right angles and no streets shall intersect any other street at less than 60 degrees.

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(c) *Corner radii at intersections.* At street intersections, property line corners shall be rounded with a minimum radius of 20 feet.

(d) *Minimum radii and maximum degree of curvature on the centerlines.* Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve shall be introduced. Minimum radii and maximum degree of curvature are as follows:

	Minimum Radius of Curvature	Minimum Degree of Curvature
Local and alley	290 feet	20

(e) *Reverse curves.* A tangent at least 50 feet long shall be introduced between reverse curves.

(2) *Vertical.*

(a) *Grade at intersection.* Approaches to intersections shall be reduced to a grade not exceeding 5% for a distance of at least 100 feet.

(b) *Minimum grade.* No street grade shall be less than 0.4%.

(c) *Maximum grades.* The maximum grade for streets shall be 15%.

(D) *Right-of-way widths.* Street right-of-way widths shall be not less than as follows:

Through streets	50 feet
Dead-end streets	50 feet
Alley	20 feet

(E) *Dead-end streets.*

(1) *Permanent.* A dead-end street or cul-de-sac, designed to be so permanently, shall not be longer than 800 feet, and shall be provided with a turn-around having a property line diameter of at least 90 feet and a diameter not less than 70 feet at the back of curb line, unless the Plan Commission approves an equally safe and convenient form of paved space instead of the required turning circle. The street right-of-way lines and the 90 feet diameter property line should be jointed by tangent arcs of 50 feet minimum

radius.

(2) *Temporary.* Where streets are extended to the boundary of a subdivision to provide for their proper continuance at such time as the adjacent land is subdivided, a T-type back-around terminus may be approved within the normal right-of-way.

(F) *Half-streets*. Half-streets shall be prohibited except under one of the following conditions:

(1) There exists a half-street which should logically be continued to a reasonable intersection.

(2) There exists a dedicated or platted half-street adjacent to the tract to be subdivided. The other half shall be platted if deemed necessary by the Plan Commission.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

' 152.147 ALLEYS.

(A) Alleys shall be discouraged in residential areas but shall be included in commercial and industrial areas where needed for loading and unloading or access purposes; and, where platted, shall be at least 20 feet in width.

(B) Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(C) Dead-end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Plan Commission.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

' 152.148 EASEMENTS.

(A) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 12 feet wide. Easements shall be so laid out that a proper continuity may be had for utilities from block to block. No permanent structure shall be erected or permitted to occupy the area subject to such easement.

(B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width for construction, or both, as will be adequate for the purpose.

(Ord. 402, passed 8-25-69)

' 152.149 LOTS.

(A) All lots shall abut on a public street.

(B) Side lot lines shall be at approximately right angles to straight streets and in radial lines on curved streets. Pointed or very irregular lots shall be avoided.

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(C) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A plating screen easement of at least ten feet in width, and across which there would be no right of access, should be provided along the line of lots abutting such traffic artery or other disadvantageous use.

(D) Lot dimensions, areas, and building setback lines shall conform to and be not less than the minimum specified by the zoning ordinance, for the district in which the lot is located, except that where a main water supply system or a sanitary sewer system is not available, the area recommendations of the County Board of Health or the Indiana State Board of Health shall become the minimum lot area where such recommendations are greater than that specified by the zoning ordinance; provided, however, that in no case shall the building setback line, lot area, frontage or depth be less than the following minimums:

Minimum lot area	15,000 square feet									
Minimum frontage	100 feet except for frontage on a cul-de-sac when frontage shall be not less than 45 feet									
Minimum lot depth	150 feet									
Minimum setback lines	<table> <tr> <td>Front yard</td> <td>-</td> <td>20 feet from the street right-of-way line</td> </tr> <tr> <td>Side yards (2)</td> <td>-</td> <td>15 feet from each lot line</td> </tr> <tr> <td>Rear yards</td> <td>-</td> <td>15 feet from the rear lot line</td> </tr> </table>	Front yard	-	20 feet from the street right-of-way line	Side yards (2)	-	15 feet from each lot line	Rear yards	-	15 feet from the rear lot line
Front yard	-	20 feet from the street right-of-way line								
Side yards (2)	-	15 feet from each lot line								
Rear yards	-	15 feet from the rear lot line								

(E) Corner residential lots shall be wider than normal in order to permit required setbacks from both streets; said corner lots shall have two front yards and only one side yard, for the purposes of these Regulations.

(F) Wherever possible, a unit shopping center, based on sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

(G) The average depth of the usable area of a lot shall not exceed three times its average width.

(H) All owners of lots in the town shall confine sand, dirt or debris within the boundaries of their property lines. Failure to comply with this provision shall subject the owner to the penalties set forth in ' 152.190 and ' 152.999 of this chapter.

(Ord. 402, passed 8-25-69; Am. Ord. 441, passed 8-26-74) Penalty, see ' 152.999

' 152.150 PLANNED UNIT DEVELOPMENT.

The design standards of these Subdivision Regulations may be modified by the Plan Commission in the case of a plan utilizing an unusual concept of development which meets the requirements of this

section. The planned unit development provision is intended to encourage original and imaginative subdivision design which preserves the natural amenities of the site and provides for the general welfare of the town.

(A) The unit plan shall be consistent with the spirit and intent of these Subdivision Regulations.

(B) The unit plan shall conform to the requirements of the zoning ordinance.

(C) The area of land to be developed shall be not less than five acres.

(D) Properties adjacent to the unit plan shall not be adversely affected.

(Ord. 402, passed 8-25-69)

▪ **152.151 PUBLIC SITES AND OPEN SPACES.**

Provision shall be made if requested by the Plan Commission for the allocation of areas suitably located and of adequate size for parks, playgrounds, recreational areas or other open space as shown on the Master Plan for the area in which the subdivision is located; the same to be made available by one of the following methods as required by the Plan Commission:

(A) Their dedication to public use on the plat of the parcel proposed for subdivision, indicating the purpose of the dedication and to whom it is to be dedicated, or the conveyance by deed to an appropriate body, or

(B) Their reservation for acquisition by an appropriate body for a period of 18 months following the date of the final approval of the plat, of land in such reasonable amount as may be determined by the Plan Commission; said reservation shall be made in such a manner as to provide for a release of the land to the subdivider in the event no public agency proceeds with the purchase.

(Ord. 402, passed 8-25-69)

▪ **152.152 NATURAL FEATURES.**

Existing natural features which would add value to the subdivision and the town, such as trees, dunes, valleys, watercourses, historic spots, and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision. The subdivider must recognize the unique character of the topography of Ogden Dunes and must prepare his or her plat in such a fashion so as to preserve, insofar as

is possible, the natural terrain the contours of the land. The lots, roads and entire layout must conform to the natural terrain so that future development will be in harmony with the existing subdivisions within the town. No plat will be approved which proposes to level these dunes.

(Ord. 402, passed 8-25-69)

*IMPROVEMENTS***152.165 GENERAL.**

(A) All of the required improvements set forth under this subchapter are to be considered as minimum acceptable standards. All those improvements for which standards are not specifically set forth shall have the standards set by the appropriate governing body. The governing body includes, but is not limited to, the Ogden Dunes Town Council, the County Highway Department, the Indiana State Highway Commission, the County Health Board and/or the Indiana State Health Board and/or the Ogden Dunes Water Department.

(B) The subdivider shall be required to complete all improvements to the satisfaction of the Town Council or file a bond with the Town Council guaranteeing such improvements. See ' 152.132(B). No bonds guaranteeing these improvements as required by these regulations shall be submitted to either the Plan Commission or Town Council until engineering drawings, written plans and specifications as required by these regulations have been submitted in final form and specifically approved by the Plan Commission or Town Council as the regulations may require.

(C) During the course of the construction of the improvements required by this article pursuant to plans and specifications as required by these regulations, the Town Building Commissioner and/or his or her deputy or the Superintendent of the Water Department, as the case may be, shall determine if the work is being performed in accordance with the plans and specifications. In the event the Commissioner determines that the work is not being so performed, he or she shall request the subdivider to stop work until appropriate corrections are made. If the subdivider refuses to voluntarily stop construction of that phase of the work that the Commissioner finds to be unsatisfactory, the Commissioner shall then notify the President of the Plan Commission. The Plan Commission may then determine to take action against the subdivider under the terms of ' ' 152.190 and 152.999 of this chapter. In the event this action is necessary in order to obtain compliance from the subdivider in addition to the remedies herein before referred to the town shall also be entitled to reasonable attorney fees, if it shall prevail in such action.

(Ord. 402, passed 8-25-69; Am. Ord. 441, passed 8-26-74)

152.166 MONUMENTS AND MARKERS.

(A) Concrete monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Iron or steel markers shall be set at the beginning and end of all curves along street property lines, at all points where lot lines intersect curves, either front or rear, all angles in property lines

of lots, and all other lot corners.

(B) Monuments shall be of pre-cast concrete or concrete poured in place with minimum dimensions of four inches at the top and six inches at the bottom and 30 inches in length, and shall be marked at the top with an iron or copper dowel set flush with the top of the monument.

(C) Markers shall consist of iron pipes or steel bars at least 36 inches, long, and not less than $\frac{3}{4}$ inch in diameter.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

• **152.167 STREETS; STREET SIGNS.**

(A) *General.*

(1) Streets (and alleys where provided) shall be completed to grades shown on plans, profiles, and cross-sections, provided by the subdivider, and prepared by a registered professional engineer or land surveyor, and approved by the Town Council.

(2) Upon the completion of the street and alley improvements, plans and profiles as built shall be filed with the Town Council.

(B) *Street surfacing.*

(1) All streets and road surfaces shall be of a flexible type pavement asphaltic surface and shall be constructed in accordance with design characteristics at least equal to:

- Surface Course = 1 inch
- Binder Course = 12 inches

(2) The granular base and sub-base requirements are stated below for flexible type pavement.

(a) Surface course and binder course shall meet the requirements for materials and methods set forth in 3 - Hot Asphaltic Concrete Surface of the *Standard Specifications* or any subsequent amendments thereto. Base to be primed with an MC-0 or MC-1 liquified asphalt material or other type of primer recommended by the Asphalt Institute prior to placing of binder course.

(b) Granular base course shall meet the requirements for No. 63 or No. 73 crushed stone (limestone) as set forth in the *Standard Specifications*, Section C-11, except that natural in place subgrade materials that meet the requirements for sub base (such as clean, free-draining sands) may be substituted and used in lieu of this item.

1. *Base Course Type 1.* Residential streets shall consist of a well consolidated shape subgrade, six inches of sub-base, and six inches of granular base course (limestone), or

2. *Base Course Type 2.* Residential streets shall consist of a well consolidated shape subgrade and eight inches of well compacted two-inch crusher run stone meeting gradation requirements in accordance with Section C-10 of the *Standard Specifications*. The paved portion of the street shall be 20 feet or more ; and the paved areas shall be located in the center of the right-of-way (see ' ' 152.146 and 152.147).

(C) *Street signs.* The subdivider shall provide the subdivision with a standard town street sign installed at each street intersection.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

▪ **152.168 STORM DRAINAGE.**

(A) The subdivider shall provide the subdivision with an adequate storm water system whenever the evidence available to the Building Commissioner and the Plan Commission indicates that the natural surface drainage is inadequate.

(B) To supplement the foregoing, on all street grades of 6% or more, the center of the pavement from the top of the rise to the base of the incline shall be inverted by one or two inches lower than the two outer edges.

(C) At the base of each such grade the road shall be so contoured as to carry off this excess water into a catch basin which shall be located along the shoulder of the road.

(D) The catch basin shall be constructed of reinforced concrete pipe 24 inches in diameter by four feet in depth, open at both ends. It shall be covered with an appropriate perforated metal cap or cover.

(E) The catch basin shall be buried in the ground and will connect with a percolation bed six feet wide, 20 feet long and three feet deep. This bed shall be filled to a depth of 28 inches with two-inch limestone. Then a AU@ shaped four-inch perforated plastic pipe shall be placed atop the stone connecting to a four-inch plastic pipe which will connect the catch basin at a depth of six inches from the top of the catch basin. The bed is then to be covered with 15 pound felt paper, and then an additional four inches of crusher run limestone shall be added to bring this entire bed flush with the shoulder surface. (See Figure A, set forth in Appendix A following this chapter).

(F) When top soil has been removed from the surface of a lot on a slope where erosion will cause displacement of loose materials, the subdivider shall be required to seed or provide other means to prevent such erosion.

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

▪ **152.169 UNDERGROUND UTILITIES.**

All utility services shall be buried under the ground in accordance with the standard practice governing

each particular utility. This shall include sewers, gas, water, electricity and telephone.
(Ord. 402, passed 8-25-69)

• **152.170 SEWERS.**

(A) In this section, and the next section (' 152.171 Water), the phrase Athe subdivider shall provide@ shall be interpreted to mean that the subdivider shall install the facility referred to, or whenever a private sewage disposal system or an individual water supply is to be provided, that the subdivider shall require, as a condition of the sale of each lot or parcel in the subdivision, that the facilities referred to in these sections shall be installed by the developer of the lots in accordance with these Subdivision Regulations.

(B) If, in the judgement of the Commission, a public sanitary sewer main is reasonably accessible, a complete sanitary sewer system including a lateral connection to each lot in the subdivision shall be installed and connected to the main. The system shall be provided with all necessary supplemental equipment or machinery (including, but not limited to, lift stations) and be in such lengths, sizes, dimensions and specifications as shall be required by the Commission. The plans for the installation of a sanitary sewer system shall be prepared by a registered professional engineer, be provided by the subdivider and approved by the Town Council and the Indiana State Board of Health (Regulation H.S.E. 14, I.S.B.H.). Upon completion of the sewer installations, the plans Aas built@ shall be filed with the Town Council.

(C) If a sanitary sewer system is to be installed, it may be desirable that sewer mains of a larger size than needed to serve the immediate subdivision be installed. If this occurs, the Commission may recommend that the town join with the subdivider in the installation of the sewer system.

(D) If, in the judgement of the Commission, a public sanitary sewer main is not reasonably accessible, sanitary wastes may be disposed of by one of the following methods:

(1) The subdivision may be provided with a complete sanitary sewer system, with lateral connections to each lot and a common treatment plant, each meeting the standards of and approved by the Indiana State Board of Health and/or the Indiana Stream Pollution Control Board.

(2) The subdivision may be provided with a private sewage disposal system on individual lots consisting of a septic tank and soil absorption field, or other approved sewage disposal system; provided such disposal systems are approved by the County Board of Health and are installed in accordance with at least the minimum standards of the Indiana State Board of Health; and provided further that the soil in the subdivision will properly absorb sewage effluent as determined by a percolation test, soil suitability survey, or as determined by such other comparable test approved by the County Board of Health. Regardless of the tests used, the following shall apply:

(a) An adequate number of tests (at least one to an acre) to clearly indicate the soil conditions throughout the subdivision shall be provided by the subdivider.

(b) These tests shall be performed by a licensed engineer, licensed surveyor, qualified sanitarian or professional consulting soil scientist acceptable to the County Board of Health. Additional tests may be required by the County Board of Health at their discretion;

(c) The results of the tests shall be keyed to the plat map and certified as being true and performed according to the required procedure by the person performing the tests.

(Ord. 402, passed 8-25-69)

• **152.171 WATER.**

The subdivider shall construct a system of water mains, connected with such public water supply and provide a connection with each lot. The work shall be done in accordance with the plans, profiles and specifications prepared by a registered professional engineer (or land surveyor, as provided by law) and shall be approved first by the State Board of Health, second by the Town Board, and third by the County Board of Health, and be in conformance with at least the minimum requirements of the State Board of Health, Regulation H.S.E. 5, I.S.B.H.

(A) *Distribution system.* No pipe smaller than six inches in diameter shall be permitted. Six inch pipe shall be limited to lengths of not over 800 feet unless looped. In high value districts, so designated for purposes of fire protection and prevention, distributors shall be not less than eight inches and cross-connected within 800 feet. On primary streets and for all long lines, distributors shall be ten inches or larger.

(B) *Valves.* Valves shall be installed so that no single accident, break, repair, or extension will necessitate shutting down a length of pipe greater than 500 feet in high value districts, or greater than 1000 feet in other districts so that flows may be maintained through arterial mains.

(C) *Service lines.* Service lines from a water main shall not be less than $\frac{3}{4}$ inch in diameter.

(D) *Fire hydrants.* Fire hydrants shall be installed and shall be not farther than 500 feet apart, and shall be equipped with an emergency shut-off valve approved by the American Waterworks Association (AWWA).

(Ord. 402, passed 8-25-69) Penalty, see ' 152.999

ADMINISTRATION OF SUBDIVISION REGULATIONS

• **152.185 PLAT CERTIFICATES.**

Each final plat submitted to the Plan Commission for approval shall carry, or be accompanied by, certificates in substantially the following forms:

(A) Owner=s Certificate and Dedication.

We the undersigned: _____ (names) _____, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat and subdivide, said real estate in accordance with the within plat.

This subdivision shall be known and: designated as _____ (name) _____, an addition to _____ (name) _____. All streets, alleys, parks, and other public lands shown and not heretofore dedicated, are hereby dedicated to the public. All Aeasements@ as shown on the plat are created for the installation and maintenance of public utilities and/or drainage, subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained upon the easement, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities, and to the rights of the owners of other lots in this subdivision. Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure.

(Additional dedications and protective covenants, or private restrictions, would be inserted here; important provisions are those specifying the use to be made of the property and, in the case of residential use, the minimum habitable floor area.)

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 20_ , (25-year period), at which time said covenants, or restrictions, shall be automatically extended for successive periods of ten years unless by vote of a majority of the then owners of the building sites covered by these covenants, or restrictions, it is agreed to change such covenants, or restrictions in whole or in part. Invalidation of any one of the foregoing covenants, or restrictions, by judgement or court order, shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect. The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns. Witness our Hands and Seals this . day of _____, 20_.

Ogden Dunes - Land Usage

STATE OF INDIANA)
) SS
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public, in and for the County of Porter, State of Indiana, personally appeared.

(name), (name), and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed. Witness my Hand and Notarial Seal this ___ day of ___, 20_.

Notary Public

(B) Engineer=s or Land Surveyor=s Certificate of Survey.

I, (name), hereby certify that I am a professional engineer (or a land surveyor), licensed in compliance with the laws of the State of Indiana; that this plat correctly represents a survey completed by me on (date), that all the monuments shown thereon actually exist; and that their location, size, type and material are accurately shown.

(SEAL) _____
Name

(C) Release of Mortgage Certificate.

In consideration of the platting of the property shown on the plat of _____, and other good and valuable considerations, receipt of which is hereby acknowledged _____, do hereby release, relinquish and forever discharge a certain mortgage made by _____ and dated the _____ day of _____, 20_, to _____ which is recorded in Book _____ of Mortgages at page _of_ the records of Porter County, State of Indiana, insofar as the same covers all property dedicated for streets, alleys, parks, boulevards, easements, or other public use, as shown on said map.

Witness _____ hand _____ this _____ day of _____, 20_.

(Acknowledgment)

Signature

(D) *Reference Certificate.*

Separate instruments which directly affect the land being subdivided are recorded in Book ____
____ are recorded in Book . of _____ at page _____, and in Book ____ of _____ a
page ____, and in Book ____ of _____ at page _, (repeated as needed) of the records of
Porter County, State of Indiana.

(E) *Plan Commission=s Certificate.*

Approved by the Ogden Dunes Town Plan Commission at a meeting held _____ 20_.

OGDEN DUNES TOWN PLAN COMMISSION

President

Secretary

(F) *Town Council=s Certificate.*

Be it resolved by the Town Council of Ogden Dunes that the dedications shown on the attached
plat of _____ are hereby accepted.

Adopted by the Town Council of Ogden Dunes this _____ day of _____, 20.

Town Council President

Attest:

Town Clerk-Treasurer

(G) *Town Attorney=s Certificate.*

Approved as to form and legality this _____ day of _____, 20_.

Town Attorney

(Ord. 402, passed 8-25-69)

▪ 152.186 INSPECTION.

(A) When the plans of streets and other improvements have been approved as provided in these Subdivision Regulations, the subdivider shall first notify the Street Commissioner of his intention to proceed with the construction or installation of the streets and improvements; notification shall be made at least 48 hours before any such construction or installation shall commence so as to give the town officials an opportunity to inspect the site prior to commencement of work and to inspect installation or construction of the streets and improvements during the course of work being performed.

(B) In order to defray a part of the costs incurred by the town in inspecting the installation of the improvements required by these Subdivision Regulations, the subdivider shall, before he proceeds with any construction or installation, present a certified check or money order made and payable in advance to the town in an amount equal to 12% of the Plan Commission's estimate of the cost of the improvements. (Ord. 402, passed 8-25-69)

▪ 152.187 MODIFICATIONS.

(A) The Plan Commission may authorize a modification of these Subdivision Regulations when, in its sound discretion, undue hardship may result from strict compliance. In addition, procedural modifications may be authorized for subdivisions which result in no more than two platted lots. In granting any modification, the Plan Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No such modification shall be granted unless the Commission finds:

(1) That there are special circumstances or conditions affecting the property such that the strict application of the provisions of these Subdivision Regulations would deprive the applicant of the reasonable use of his or her land;

(2) That such modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(3) That the granting of such modification will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(B) Any modification thus authorized is required to be entered in writing in the minutes of the

Commission and the reasoning on which the modification was justified set forth.
(Ord. 402, passed 8-25-69)

▪ **152.188 AMENDMENTS.**

All amendments to these Subdivision Regulations shall be in conformance with Sections 37 through 40, inclusive and Section 42 of Chapter 174 of the Acts of the Indiana General Assembly of 1947, and all Acts amendatory thereto.

(Ord. 402, passed 8-25-69)

▪ **152.189 CERTIORARI.**

In any decision by the Plan Commission under this chapter, any person aggrieved may petition the Circuit Court of Porter County, Indiana, for writ of certiorari as provided by law.

(Ord. 402, passed 8-25-69)

▪ **152.190 REMEDIES.**

(A) The Town Council, the Plan Commission, or any designated enforcement official, or any person or persons, firm or corporation jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court of the County to restrain an individual corporation or a governmental unit from violating the provisions of this article.

(B) The Town Council may also institute a suit for mandatory injunction directing any individual, a corporation or a governmental unit to remove a structure erected in violation of the provisions of this article.

(C) Any building, erected, raised or converted, or land or premises used in violation of any provisions of this article or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

(Ord. 402, passed 8-25-69)

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

▪ **152.200 RESPONSIBILITY.**

(A) *Plan Commission; delegation of duties.*

(1) Responsibility for administering and enforcing all provisions of this chapter is conferred upon the Plan Commission of the town. In exercising its responsibilities the Commission may delegate

to the Architectural Review Committee the review and certification of the plans and specifications of any proposed building, structure or other property improvement requiring approval, as defined herein, for permit eligibility. The Commission may also, and shall in accordance with state statutes, delegate to the Building Commissioner such duties as issuing permits, conducting field inspections and reporting violations.

(2) The Commission may at any time without notice, to the extent permitted by state statutes, revoke any duties so delegated as above and recall them to the Commission.

(B) *Architectural Review Committee.*

(1) The Committee shall consist of three persons, two of whom shall be members of the Commission, and at least one shall be a recognized, experienced architect or engineer who may, but is not required to, be a resident of the town. Members of the Committee shall be appointed, and any compensation for outside professional services fixed, by the Town Council, upon recommendation of the Commission, for a term of one year, with vacancies filled accordingly. Members of the Commission so appointed to the Committee shall serve without pay.

(2) On behalf and at the direction of the Commission, the Committee shall, within 30 days of filing of a valid permit application, review all plans and specifications, determine their adequacy and request additional information as required, to approve and certify to the Building Commissioner their eligibility for permit. Applications disapproved for any of the following reasons shall be referred by written report, showing the reason(s) therefor, to the Commission for action, if the plans and specifications:

(a) Do not conform to the character of buildings in the immediate neighborhood of the construction;

(b) Are incompatible with the character of structures generally in the zoning district of the construction;

(c) May adversely affect the taxable values of similar property in the zoning district of the construction;

(d) Do not conform to the requirements of this chapter, or do not meet currently accepted architectural and engineering standards.

(C) *Building Commissioner.* The Building Commissioner, upon the recommendation of, and with qualifications satisfactory to, the Commission, shall be appointed, and compensation fixed, by the Town

Council, for a term not to exceed one year, which may be extended for additional terms, upon recommendation of the Commission.

(1) On behalf and at the direction of the Commission, subject to compliance with state statutes, the Building Commissioner shall enforce all provisions of this chapter. For this purpose the Building Commissioner may inspect any occupied property at any reasonable hour of the day, and may enter the premises with the consent of the owner, or authorized representative thereof.

(2) The Building Commissioner shall first advise the owner or authorized representative of any possible violations, order the violations ceased and/or corrected, and notify the Plan Commission. If deemed necessary, the Building Commissioner or the Plan Commission shall pursue enforcement according to ' 152.202 below.

(3) The Building Commissioner shall:

(a) Make inspections of all construction upon which permits have been issued, upon his or her own initiative or upon request of the owner or contractor, as specified in Article III of this chapter;

(b) Assure compliance with all provisions of this chapter in general and of Article III in particular, relating to all construction or demolition, including permitted time limits, and follow the procedures in ' 152.202 below;

(c) Post all required notices and keep records of all applications and permits issued and denied, which records shall be available for public inspection.

(D) *Electrical and plumbing inspectors.* Electrical and plumbing inspector(s) may be appointed, upon the recommendation of, and qualifications satisfactory to, the Commission, and compensation fixed by the Town Council. The Inspector(s) shall be responsible to the Building Commissioner.

(^99 Code, ' 10-28) (Ord. 643, passed 3-2-98)

' 152.201 COMPLIANCE.

(A) *Permits.* No new construction, alteration, addition, enlargement, improvement, major repair(s), land disturbance, removal of trees, removal or addition of land fill, removal of a portion or demolition of existing structures, shall be permitted without application for, and issuance of, a valid permit therefor, except as provided herein (required permits and fees are listed in ' 152.203 below).

(B) *Certificates of occupancy.* No land shall be occupied or used, and no building or structure erected, reconstructed or structurally altered shall be occupied or used, in whole or in part, for any purpose, without a valid certificate of occupancy issued by the Building Commissioner or Plan Commission, stating that the

building and/or premises are in compliance with all provisions of this chapter.

(C) *Appeals.* Any administrative or enforcement decision of the Plan Commission, the Architectural Review Committee or the Building Commissioner may be appealed within 30 days to the Board of Zoning Appeals, upon filing of the specified form and payment of the filing fee (see ' 152.204 below). ('99 Code, ' 10-29) (Ord. 643, passed 3-2-98)

' 152.202 OFFENSES; REMEDIES.

(A) *Offenses.*

(1) It is unlawful for any person, firm, individual, partnership or corporation to violate or fail to comply with this chapter.

(2) It shall be unlawful for any person, firm, individual, partnership or corporation to erect, construct, enlarge, alter, repair, move, improve, install, remove, convert or demolish, equip, use, occupy or maintain any building(s) or structure(s), building lot, or land in the town, or cause the same to be done, contrary to or in violation of this chapter.

(B) *Investigation and enforcement by citation.*

(1) Whenever any official of the town has probable cause to believe that any person, firm, individual, partnership or corporation has violated any term or provision of this chapter or code or any town ordinance or code, said official shall notify the Building Commissioner immediately in order to verify that such violation exists and shall document the existence of the alleged violation and inform the Plan Commission, the Town Marshal and the Town Attorney of his findings.

(2) In all cases, where the Building Commissioner in his or her judgment finds a violation does exist, he or she shall notify in writing the Plan Commission, the Town Marshal, and the Town Attorney. The Town Marshal shall, in the appropriate circumstance, issue a citation to the violator.

(C) *Declaration of a common nuisance and offense of nuisance.*

(1) Any structure erected, raised, or converted, or land or premises used, in violation of this chapter or code or regulation contained within this chapter, is declared to be a common nuisance and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

(2) Any person, firm, individual, partnership or corporation violating any of the provisions of this chapter or code or any town ordinance or code enforced hereby shall be deemed guilty of an ordinance

violation and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter and code is committed, continued or permitted, and upon such finding of any such violation, such person shall be punishable by a fine as set forth in ' 152.999.

(3) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

(D) *Notification and violation.*

(1) Written notice may be served by the Building Commissioner, the Town Marshal, any member of the Town Council, the Town Attorney, or by any adult designated by the Clerk-Treasurer or Town Attorney.

(2) Personal service of any written notice is not required. Service may be completed by posting notice in a conspicuous place on the premises and by mailing a copy by certified mail to the last known address of the party or person being served notice.

(E) *Origin of notice.* Written notice may be the result of an order issued by the Board of Zoning Appeals, a determination of noncompliance issued by the Plan Commission, or a notification, stop work order or other notice or order issued by the Building Commissioner, the Town Marshal or the Town Attorney.

(F) *Enforcement of actions through court.*

(1) The Town Attorney on receipt of information of the violation of any ordinance, may make an investigation of the alleged violation or order the Building Commissioner or Town Marshal to conduct an investigation. If facts elicited by the investigation are sufficient to establish a reasonable belief that a violation has occurred, the Town Attorney may file a complaint against that person and prosecute the alleged violation.

(2) The Plan Commission or the Building Commissioner or the Town Marshal may bring an action in the Circuit or Superior Court of Porter County to invoke any legal, equitable, or special remedy for the enforcement of this chapter and code and to enforce the conditions imposed under this chapter or as otherwise allowed or as otherwise provided for by law; covenants made in connection with a subdivision plat, a development plan, or any commitments made in accordance with law.

(3) The Board of Zoning Appeals may bring an action for injunction in the Circuit or Superior Court of Porter County to restrain a person from violating this chapter or code and/or for a mandatory injunction, directing a person to remove a structure erected in violation of any town code or ordinance.

(^99 Code, ' 10-30) (Ord. 643, passed 3-2-98)

152.203 PERMITS, FILING FEES AND DEPOSITS.

(A) A non-refundable deposit of \$500 shall be paid upon a submission of a building permit application for all new construction, additions or structure modifications.

(1) This nonrefundable deposit shall be deducted from the total building permit cost as a credit at the time the building permit is issued, so long as the building permit is issued within one year from the date of the submission of the building permit application.

(2) In the event the final building permit cost is less than \$500, the difference shall be refunded to the applicant within 30 days of the issuance of a final building permit.

(B) A reinspection and consultation fee of \$75 per hour must be paid before reinspection of any rejected construction. There is a minimum charge of \$75 per reinspection.

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
Board of Zoning Appeals reporting/filing Fee	' 152.204(C)(1)	On filing of appeal	\$300
Sign permit	' 152.047(B)	On application	\$50
Building permit	' 152.075(A)	On application**	\$100 + \$1.50 per sq. ft. + \$0.40 per sq. ft. for garage and other non-living spaces + \$300 debris removal refundable deposit
Remodeling and renovation permit	' 152.075(A)	On application**	\$100 + \$1.50 per sq. ft. + \$0.40 per sq. ft. for garage and other non-living spaces + \$300 debris removal refundable deposit
Electrical permit	' 152.075(B)	On application	\$50 + \$75 per inspection
Plumbing permit	' 152.075(C)	On application	\$50 + \$75 per inspection
Heating, venting and		On application	\$50 + \$75 per inspection

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
air conditioning permit			
Repair permit	' 152.075(D)	On application	\$200 (includes two inspections)

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<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
Roof repair permit		On application	\$125 (includes one inspection)
Water supply tap fee	' 152.075(E)	On application to Water Works	Established by Ogden Dunes Water Works
Sewage disposal permit	' 152.075(E)	On application to Porter County Health Department	Established by Porter County Health Department
Driveway or parking area permit	' 152.075(F)	On application***	\$150
Land disturbing activity permit	' 152.075(G)	On application***	\$400 (\$300 is refundable)
Tree removal permit	' 152.075(G)	On application***	\$5 + \$1 per tree over five trees
Demolition permit	' 152.075(G)	On application	\$525.00 (\$300.00 is refundable)
Swimming pool	675 IAC 20	On application	\$500.00 (Includes four inspections)
Certificate of occupancy	' 152.078	On application	Fee included with building permit
Contractor and licensing			
License fee	' 152.099(B)	On application	\$100 (expires 12/31)
Renewal fee	' 152.099(B)(1)	By January 30 each year	\$25
Late Renewal fee	' 152.099(B)(2)	On application	\$50
Conditional approval of preliminary plat	' 152.131(B)	On application	\$250 + \$5 per lot included in plat

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
** Fees do not include electrical, plumbing and heating, venting and air conditioning permits *** Fees waived if accompanied by building permit			

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Ogden Dunes - Land Usage

Whenever a person, whether an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity, which is either an applicant for a permit or an obtainer of a permit owes fees (including checks returned for insufficient funds, permit fees or inspection fees owed pursuant to this code), the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied. Similarly, non-conformity and/or non-compliance with any applicable provision of an applicable code or ordinance is also grounds for the Building Commissioner to withhold the issuance of requested permits until such time that conformity and/or compliance is had. ('99 Code, ' 10-31) (Ord. 643, passed 3-2-98; Am. Ord. 695, passed 10-3-05; Am. Ord. 718, passed 8-13-07; Am. Ord. 725, passed 5-5-08)

' 152.204 BOARD OF ZONING APPEALS.

(A) *Membership.* Pursuant to the laws of the State of Indiana there shall be created a Board of Zoning Appeals, whose membership and manner of selection shall be as directed in I.C. 36-7-4-900 *et seq.*), and all Acts now or hereafter amendatory or supplemental thereto. Initial membership shall be appointed so as to provide for staggered terms of office up to a maximum term of four years and so that no more than two terms shall expire in any one year. Subsequent appointments shall be for a term of four years. ('99 Code, ' 10-35)

(B) *Duties and responsibilities.* The Board shall have all duties and powers prescribed by I.C. 36-7-4-900 *et seq.* and all acts now or hereafter amendatory or supplemental thereto.

(1) *Officers.* At the first meeting of the Board each year, the Board shall elect a chairperson, vice-chairperson and a secretary from among its members.

(2) *Secretarial services.* The Board may appoint, engage or hire a recording secretary or secretarial services as the case may be and such employee or independent contractor, as necessary, for the discharge of its duties all in conformity and compliance with the salaries, compensation and budgets fixed by the Town Council.

(3) *Rules and regulations.* The Board shall adopt rules and regulations which may not conflict with this chapter, concerning the filing of appeals; the application for variances, special exceptions, special uses, contingent uses, and conditional uses; the giving of notice; the conduct of hearings; and the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk or area). Rules adopted by the Board shall be printed and be made available to all applicants and other interested persons.

(4) *Public records.* The Board shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the office of the Board and are public records. The Board shall in all cases heard by it make written findings of fact.

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Zoning, Building and Subdivision Control

114A

(5) *Public meetings.* All public hearings shall be conducted during meetings of the Board which shall be open to the public. The Board shall conduct hearings and render decisions as required by law. Nothing in this section shall preclude the Board from meeting in an executive session, if required.
(^99 Code, ' 10-36)

(C) *Expenses.* Each and every petitioner, appellant, or applicant to the Board of Zoning Appeals must assume certain costs and expenses as herein provided:

(1) *Reporting fee.* The Board shall require a party filing an appeal, petition or application which requires a public hearing to pay a filing fee of an amount specified in ' 152.203, per appeal, petition or application. This filing fee is to be payable to the Clerk-Treasurer of the town and is refundable if the hearing is not held.

(2) *Public notice cost.* The Board shall require the party filing an appeal, position or application which requires public notice to assume the cost of public notice and due notice to interested parties.
(^99 Code, ' 10-37)

(D) *Appeals.* Appeals to the Board may be taken by any party aggrieved by a decision or requirement of the Plan Commission, Architectural Review Committee or Building Commissioner involved in the

administration of this Ordinance, all in accordance with I.C. 36-7-4-900 *et seq.*

(1) *Appeal right.* Any person aggrieved by a decision or order of the Plan Commission, Architectural Review Committee or Building Commissioner may appeal to the Board within a period of 30 days after the date of the action being appealed. A notice of appeal, stating the grounds thereof, shall be filed in writing with the secretary of the Board.

(2) *Disposition.* In exercising its power, the Board, after public hearing, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all powers of the Plan Commission, Architectural Review Committee, or Building Commissioner from whom the appeal is taken.
(^99 Code, ' 10-38)

(E) *Variances*. The Board shall be authorized upon appeal to make variances to the requirements of this chapter and applicable codes herein, and to attach such conditions to the variance necessary to assure compliance with the purpose of this chapter in accordance with I.C. 36-7-4-900 *et seq.*

(1) *Variance of use*. A variance of use may be permitted if all of the following requirements have been met:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(c) The need for the variance arises from some condition peculiar to the property involved;

(d) The approval is not substantially inconsistent with the Master Plan of the town.

(2) *Variances from development standards*. A decision to approve a variance from the development standards (such as height, bulk or area and the like) of this chapter may be permitted if, after a public hearing, the Board shall find in writing that all of the following requirements have been met:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(c) The strict application of the terms of this chapter will result in an unnecessary hardship in the use of the property.

(^99 Code, ' 10-39) (Ord. 643, passed 3-2-98)

^ 152.999 PENALTY.

(A) If any person, firm, individual, partnership or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, or any ordinance of the town, within the time prescribed by the Plan Commission or the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Plan Commission, the Building

Commissioner or the Town Marshal in connection with the provisions of this chapter, for each such violation, failure or refusal, such person, firm, individual, or corporation shall be fined in any sum not less than \$50 under the Ordinance Violation Bureau, not less than \$150 under a determination of violation nor more than \$2,500 or the maximum allowed by state law. Each day of such unlawful activity as is prohibited by this section shall constitute a separate offense.

2006 S-2

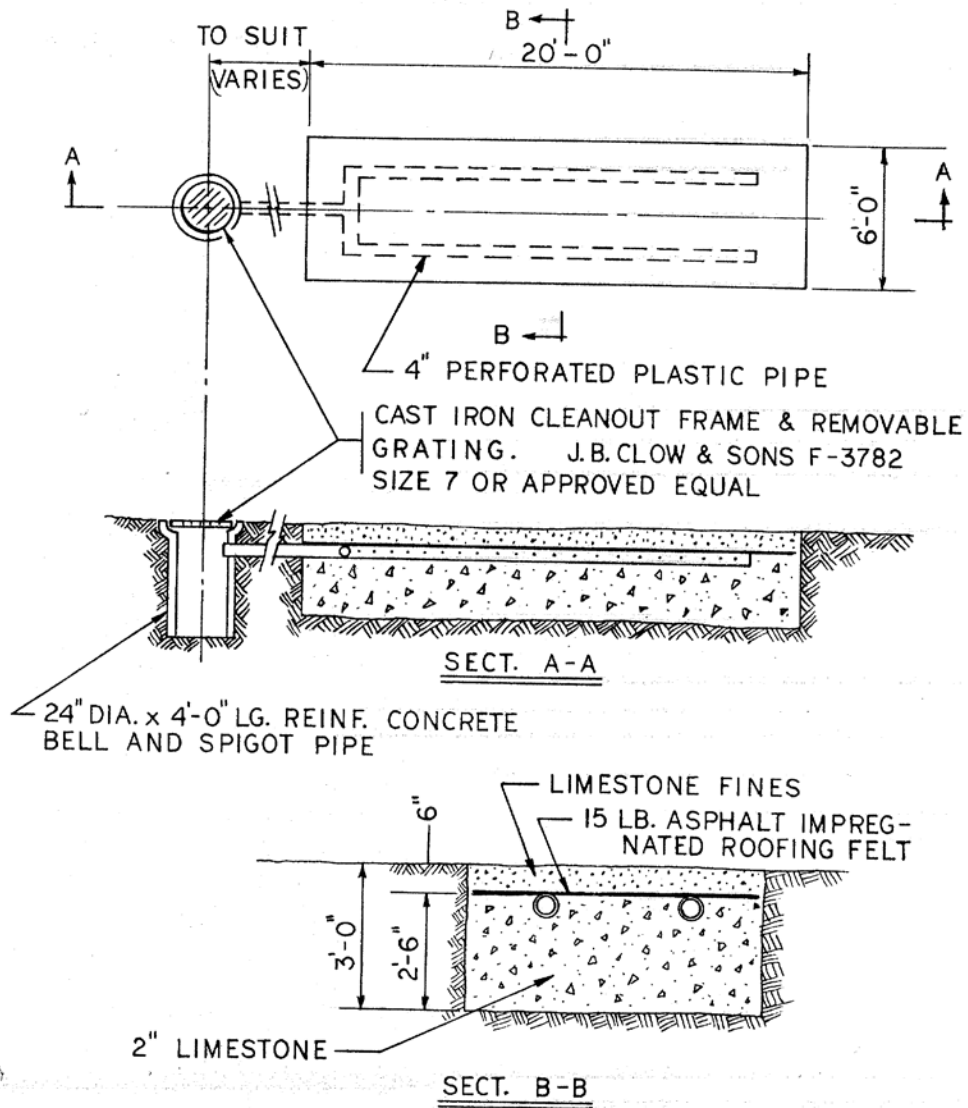
(B) Notwithstanding the above provisions, any violation of the following specific requirements of this chapter may be satisfied by coming into compliance therewith and paying a fine of \$100 for each offense, (\$25 if paid within five days of notice of the violation):

(1) Prohibited temporary or movable structures, or prohibited outside storage of materials or equipment, vehicles and the like (see ' 152.045(A));

(2) Prohibited erection or display of signs, without permit (See ' 152.047(B)).
(^99 Code, ' 10-30) (Ord. 643, passed 3-2-98)

2006 S-2

FIGURE A
CATCH BASIN & DRAINAGE FIELD



APPENDIX A: FIGURE A CATCH BASIN AND DRAINAGE FIELD

(Ord. 402, passed 8-25-69)

APPENDIX B: PROPOSED SPECIFICATIONS FOR SOIL ANALYSIS

1. At least one (1) hole a minimum of one and one-half (1 1/2) inches in diameter and average depth of five (5) feet and a minimum of four (4) feet below planned final grade, for each house site and in the area of the septic tank system location. This hole is to be bored in such a manner that each layer, or strata of soil can be identified for analysis. Any water level encountered in this soil sampling process shall be recorded and made a part of the Professional Engineer=s certification.
2. Each horizon within at least five (5) feet of the surface shall have an analysis as to the type and kind of soil.
3. The analysis of the holes shall be certified to by the Registered Professional Engineer, and submitted to the Plan Commission as a part of the plans for the subdivision.
4. A certified statement by the Registered Professional Engineer as to percolation possibilities shall be presented to the Plan Commission as a part of the plans for the subdivision.
5. The area map of the subdivision shall show the location of all holes used to make this soil analysis.

(Ord. 402, passed 8-25-69)

APPENDIX C: SUBDIVISION REGULATION PROCEDURES AND FORMS

Section

1. Subdivision procedures schedule
2. Step 1 Sketch Plan and related forms
3. Step 2 Preliminary Plat and related forms
4. Step 3 Final Plat and related forms
5. Alternate Step 4 Minor subdivision final plat and related forms

1. SUBDIVISION PROCEDURES SCHEDULE.

<i>Phase</i>	<i>Application</i>	<i>Preliminary Processing</i>	<i>Classification and Review</i>	<i>Hearing</i>	<i>Approval</i>	<i>Final Processing</i>
Minor	Submits Sketch Plan and Form No. S.1	Review Application for completeness, sets date for meeting	Classify as major or minor*, reviews plat, determine procedures. If minor, omit steps 2 and 3. If major, omit step 4.		Takes action, gives notification	Return sketch plat and application to subdivider
Minor Plat (subdivision)	Submits Preliminary Plat, Form No. S.2, street and utility plans, topographical data, prop. protective covenants and application fee	Review application, fee and attachments for completeness and refers copies to Town Engineer, Attorney, P.C., sets date of meeting	Review for conformance; if so, sets date for hearing; (subdivider pays cost of hearing notice)	Publish notice	Changes as a result of hearing; conditional approval given	Return copy of preliminary plat and application to subdivider
Major (Major subdivision) Submits specifications, covenants to council; installs costs bond. If pays inspection	Submits final plat, form no. S.3, protective covenants, notice from Town Council	Review application for completeness, refers copies to Town Engineer, Attorney, P.C., sets date of meeting	Review for conformance		Approval	Signatures on plat; pays fee for inspection if improvements are not installed; final plat (orig.) returned to subdivider
Step 4 (Minor*) (Minor subdivision) Submits specifications, covenants to council; installs costs bond. If pays inspection	Submits final plat form no. S.4, street and utility plans, topographical data, protective covenants, application fee, notice from Town Council	Review application fee and attachments for completeness and refers copies to Town Engineer, Attorney, P.C.; sets date of P.C. meeting	Review for conformance; if so, sets date for hearing; (subd. pays cost of hearing notice)	Publish notice	Changes as a result of hearing approval given	Signatures on plat; pays fee for inspection if imp. are not installed; final plat (orig.) returned to subdivider

Minor subdivision, so designated for the purposes of procedural modifications, is defined as a subdivision which results in no more than two plots, either of which involves a new street or street realignment.

2. SKETCH PLAN AND RELATED FORMS.

Step 1
Sketch Plan

Application

The Subdivider submits a sketch plan and completed Pre-Application Form (No. S.1) to Plan Commission Secretary or Building Commissioner.

Preliminary Processing

The Plan Commission Secretary or Building Commissioner reviews the plat for content and the Pre-Application Form No. 1 for completeness, refers the same to the Plan Commission, and informs the subdivider of regulations affecting subdivisions and the date of the next Plan Commission meeting (the subdivider must be present to answer questions and to be informed of procedures).

Classifications and Review

The Plan Commission classifies the subdivision as Amajor@ or Aminor@*, reviews the proposal in terms of meeting the objectives of the Subdivision Regulations, and informs the subdivider of general regulations and procedures.

If classified as a Aminor@ subdivision, then Steps 2 and 3 are omitted. If Amajor,@ then Alternate Step 4 is omitted.

Approval

The Plan Commission takes action on the proposed plat. If the plans do not meet the objectives, it shall express the reasons therefor and notify the subdivider. If the plans do meet the objectives, then the subdivider is notified to proceed with Step 2 (for major subdivisions) or Alternate Step 4 (for minor subdivisions).

Such notification shall be made within 30 days after review.

Final Processing

One copy of the Pre-Application (Form No.S.1) together with the sketch plat, is returned to the subdivider at the time of approval notification. Duplicate copies of the Pre-Application Form are filed with the Plan Commission Secretary and the Building Commissioner.

* A minor subdivision, so designated for the purposes of procedural modifications, is defined as a

subdivision which results in no more than two platted lots, neither of which involves a new street or street realignment. (See ' 152.187(A))

(File in triplicate)

Form No. S.1.

SKETCH PLAN PRE-APPLICATION CONSULTATION

(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Pre-Application No.: _____ Date Plan Submitted: _____

Received by: _____ Title: _____

(P.C. Sec. or Bldg. Commr.)

1. Applicant=s Name: _____

Address: _____

Phone: _____

2. Present Owner (if other than above)

Name: _____

Address: _____

Phone: _____

3. Sketch Plan prepared by: _____

Address: _____

Phone: _____

4. Interest of applicant (if other than owner): _____

5. Location of subdivision (describe): _____

6. Number of proposed lots _____

7. Area of entire tract _____, and portion being subdivided _____

ACTION OF PLAN COMMISSION

A. Meets objectives of Subdivision Regulations (yes or no) _____

1. If No, state reasons: _____

B. Classified as minor* subdivision (yes or no) _____

C. Applicant notified of action and general procedures (yes or no) _____

Date notified: _____

(within 30 days after review)

Plan Commission President

Plan Commission Secretary

* A minor subdivision, so designated for the purposes of procedural modifications, defined as a subdivision which results in no more than two platted lots, neither of which involves a new street realignment. (See ' 152.187(A))

(File in triplicate)

Form No. S.1a.

SKETCH PLAN ADMINISTRATIVE CHECKLIST

(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Pre-Application No.: _____ Date Submitted: _____

Name of proposed subdivision: _____

Name of Applicant: _____

Name of Owner: _____

Sketch plan prepared by: _____

1. Plat Contents

a__ Description of the boundary in relation to the nearest existing public street.

b__ Location

c__ Available services

d__ Proposed layout of streets

e__ Proposed layout of lots

f__ Topographic data

g__ Environment, such as: wooded areas _____, existing structures _____,
adjoining lot owners and uses _____, or other _____.

2. _____ Referred to Plan Commission. Date _____

3. General Questions (Some of these questions may need to be asked again with the Preliminary Plat Application)

a__ Does the contemplated character of the proposed subdivision protect owners against depreciation of value or substantially benefit the community? _____

b__ Does it preserve the natural beauty of the town? _____

c__ Will the subdivider construct or control construction of the houses? _____

4. Physical Limitations

a__ Are any areas physically unsuitable for development? _____

5. Location

a__ Will it be compatible with neighboring areas? _____

6. Legal and Financial Restrictions

- a__ Has the title been cleared? _____ Taxes paid? _____
- b__ Are there any liens against the property? _____
- c__ Does it conform to the zoning ordinance? _____
- d__ Does it abide by the requirements of the subdivision regulations?

- e__ Does it fit in with the master plan and carry out its objectives? _____
- f__ Will it be in accord with building_____, health_____ or architectural advisory codes or requirements? _____
- g__ Is there reasonable financing available for the project? _____
- h__ Are there any special covenants to regulate landscaping_____, building_____ or use of parks? _____
7. Roads
- a__ Do the roads blend reasonably well with the topography _____ drainage_____ or existing roads? _____
- b__ Do they meet the design standards? _____
- c__ Are there any dangerous street patterns? _____
8. Utilities
- a__ Are there any sub-surface conditions that would be unsafe for septic systems _____ or wells? _____
- b__ Can an adequate supply of municipal water be provided conveniently? _____
- c__ Will proper drainage be insured by the placement of buildings? _____
9. Lots
- a__ Do all lots meet the minimum requirements? _____
- b__ Are pedestrian crosswalks needed to serve public areas _____ or to adjacent streets? _____
- c__ Are there any Aland locked@ lots? _____
- d__ Are they so sited as to take advantage of the amenities of the area? _____
- e__ Are there any natural areas which should be used, or set aside, as park or open space rather than built upon? _____
- f__ Will all residents have access to beaches or parks? _____
- g__ Are the lot designs compatible with neighboring developments? _____
10. Parks and Landscaping
- a__ Are there any provisions made for parks or open spaces? _____
- b__ Are provisions made for saving large trees_____, sand dunes? _____
- c__ Will there be major landscaping_____ or earth moving? _____

Applicant supplied or referred to a copy of Master Plan_____, Zoning Ordinance____,
Subdivision Control Regulations_____, Building Codes_____, Health Codes_____,
Architectural Advisory Board requirements_____, other? _____

Action made by Plan Commission. Date: _____

Copy of Form No. S.1. filed with Plan Commission Secretary.

Duplicate copy filed with Building Commissioner.

Duplicate copy given to Applicant. Date: _____

3. STEP 2 PRELIMINARY PLAT AND RELATED FORMS.

Step 2
Preliminary Plat

Application

The Subdivider submits 3 copies each of the preliminary plat; completed application form (No. S.2); street and utility improvements plans, topographic data, proposed protective covenants, or other material; and the application fee. Submission is to the Plan Commission Secretary or Building Commissioner at least four days prior to the next Plan Commission meeting.

Preliminary Processing

The Plan Commission Secretary or Building Commissioner reviews the application and fee for completeness and that the required attachments, including number of copies, are submitted with the preliminary plat; refers copies of the same to the Town Engineer, Plan Commission, and Town Attorney; and informs the subdivider of the date of the next Plan Commission meeting, at which consideration will be given (the subdivider should be present to answer questions).

Review

Within 60 days after receipt of application, preliminary plat and supplementary material, the Plan Commission, Town Engineer, and Town Attorney shall review them for their conformance with the provisions of the subdivision regulations. If not in conformance, they shall be returned to the subdivider with its recommended changes or additional information necessary before a public hearing will be held. If in conformance, the Plan Commission shall accept them and notify the subdivider in writing of same; set a date for public hearing; notify the subdivider in writing of set date, and cost of publishing the legal hearing notification (to be paid by the subdivider).

Hearing

At least ten days prior to the hearing date, the Plan Commission shall publish in a newspaper of general circulation within its town a notice of the time and place of the hearing. Additional notifications to any person or governmental agency having a probable interest in the proposed plat might also be given, if the Plan Commission deems it necessary.

Approval

Following the public hearing, the Plan Commission shall notify the subdivider of any changes deemed necessary as a result of the hearing before conditional approval can be granted. If no changes are necessary, or when such changes have been made, the Plan Commission shall notify the subdivider in writing that it has given its conditional approval on the preliminary plat; and is ready to receive the final plat.

Final Processing

One copy of the application (Form No.S.2) , preliminary plat, and supplementary material are returned to the subdivider and duplicate copies are filed with the Plan Commission Secretary and the Building Commissioner.

(File in triplicate)

Form No. S.2.

APPLICATION FOR CONDITIONAL APPROVAL OF PRELIMINARY PLAT
(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Plat Submitted: _____

Received by: _____ Title: _____

(P.C. Sec. or Bldg. Commr.)

Form No. S.1 Pre-application Number: _____

1. Applicant=s Name: _____

Address: _____

Phone: _____

2. Present Owner (if other than above)

Name: _____

Address: _____

Phone: _____

3. Preliminary plat designed by: _____

Profession: _____

Address: _____

Phone: _____

4. Interest of applicant (if other than owner): _____

5. Location of subdivision (describe): _____

6. Number of proposed lots _____

7. Area of entire tract _____, and portion being subdivided _____

8. Date classified as major subdivision _____

9. Development plans: _____

a. Sell lots only? (yes or no) _____

b. Construction of houses for sale (yes or no) _____

c. Other _____

10. Deed restrictions or protective covenants that apply or are contemplated: _____

(If no restrictions or covenants, state ANone@, if AYes@ attach copy)

11. List of proposed improvements and intention to install or post a bond prior to final approval.

Improvement

Intention

a.

- b.
- c.
- d.
- e.

12. List of maps or other material accompanying application, and number of each:

<i>Item</i>	<i>Number</i>
a.	
b.	
c.	
d.	
e.	
f.	

13. Fee paid \$ _____
(Payable to Town Clerk-Treasurer)

Signature of applicant: _____ Date: _____

ACTION OF PLAN COMMISSION Date Reviewed: _____
(within 60 days after receipt)

A. Application accepted as being in conformance with provisions of subdivision regulations
(yes or no) _____

B. Applicant notified of acceptance: _____ Date: _____

C. Date set for public hearing: _____

1. Notification to applicant (date) _____

2. Notification by publication (date) _____

3. Cost of publishing (to be paid by applicant) \$ _____

D. Public hearing held (date) _____

E. Changes necessary as a result of public hearing: _____

F. Changes made (date) _____

G. Conditional Approval given (date) _____ Disapproval _____

H. Applicant notified (date) _____

I. Lapse date for filing final plat _____

(one year after conditional approval date)

Plan Commission President

Plan Commission Secretary

(File in triplicate)

Form No. S.2a

PRELIMINARY PLAT ADMINISTRATIVE CHECKLIST
(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Submitted: _____
Name of Proposed Subdivision: _____
Name of Applicant: _____
Name of Owner: _____
Preliminary Plat designed by: _____

I. PLAT CONTENTS

1. Description

- a__ Scale (100 feet to one inch or larger)
- b__ Key map
- c__ North point
- d__ Date
- e__ Subdivision title (name)
- f__ Name and address of owner(s) of record _____

Subdivider _____

Registered engineer or land surveyor who prepared plat _____

2. Existing Conditions

- a__ Boundary lines of proposed subdivision
- b__ Location, width and names of existing platted streets _____, railroads _____, utility rights-of-way _____, parks or open space _____, permanent buildings, section lines _____, municipal corporation lines _____
- c__ Location, size and grade of existing drainage ditches _____, sewers _____, water mains _____, culverts _____, other underground facilities (within or adjacent to the tract)
- d__ Boundary lines and owner or subdivision title of undivided _____ and subdivided _____ land

e ___ Topography data ____, intervals (specify) _____ (not more than five feet, nor less than 1 foot) (1) on plat? _____, (2) on separate sheet? _____

f ___ Existing zoning of tract _____ and adjacent tracts _____

3. Proposed Conditions

- a__ Street names _____, widths _____
- b__ Widths of alleys (if any) _____, crosswalks _____, and easements _____
- c__ Layout _____, number _____ and approximate dimensions _____ of lots
- d__ Building setback lines _____ showing dimensions _____
- e__ Parcels of land intended for public use _____ or property owners use _____ (stating the proposed use)
- f__ Proposed water mains _____, sewer mains _____, storm sewers _____ culverts and drainage structures _____
- g__ Proposed street improvements _____
- h__ Draft of proposed protective covenants or private restrictions _____

II. APPLICATION AND FEE

- 1.__ Three (3) copies each of preliminary plat _____ street and utility improvements plan (if on separate sheet) _____, topographic data (if on separate sheet) _____, protective covenants _____, other _____
- 2.__ Application fee: Amount \$ _____ Form: _____
- 3.__ Application received four (4) or more days prior to Plan Commission consideration?
- 4.__ Review of plat and supplementary material given within 60 days after submitted?

Were the questions on Form No. S.1a asked again?

Action made by Plan Commission. Date: _____

Copy of Form No. S.2 filed with Plan Commission Secretary

Duplicate copy filed with Building Commissioner

Duplicate copy given to Applicant. Date: _____

4. STEP 3 FINAL PLAT AND RELATED FORMS.

Step 3
Final Plat

The Subdivider submits plans and specifications for improvements to the Town Council, installs improvements according to Subdivision Regulations, or posts a bond guaranteeing said installations. If installations are to be made before final plat approval, then an advance inspection fee should be paid to the town.

Application

The subdivider submits 3 copies each of the final plat; completed application forms (No. S.3) and protective covenants, in the form for recording; a notice from Town Council stating that all improvements and installations have been made in accordance with specifications and that a two-year maintenance bond has been posted, or a notice from Town Council stating that a bond has been posted to complete all improvements and installations within two years from final plat approval date.

The submissions shall be made to the Plan Commission Secretary or Building Commissioner within one year after conditional approval date, but at least 45 days prior to desired final consideration meeting.

Preliminary Processing

The Plan Commission Secretary or Building Commissioner reviews the application for completeness and that the required attachments are submitted with the final plat; refers copies of the same to the Town Engineer, Town Attorney and Plan Commission; and informs the subdivider of the date of the meeting, at which final consideration will be given.

The Town Attorney reviews and approves the bond surety, final plat, and protective covenants as to legal form and content.

The Town Council reviews plans and specifications for improvements; and street, alley, easement and public land dedications. The Town Engineer reviews plans and specifications for improvements and plat contents.

Review

The Town Council, Town Attorney, and Town Engineer should review the plat and supplementary material and make their comments to the Plan Commission prior to its final consideration meeting. At such meeting, determination must be made as to conformance with the provisions of the subdivision regulations, zoning ordinances, master plan, and other regulations. If not in conformance, the Plan Commission shall direct the subdivider to make the necessary changes or to provide additional information before final approval can be given.

Approval

If the plat and supplementary material are approved as being in conformance with regulations, then the Plan Commission president and secretary shall be directed to affix its seal and certifying signatures on the plat.

Final Processing

The Plan Commission, after it affixes its seal and signatures on the plat, shall forward the plat to the Town Council for their approval and signatures. After its approval, the Town Attorney would then approve and sign the plat.

If improvements have not been installed, the subdivider will be directed to pay the inspection fee before he or she proceeds with any construction or installations.

The final plat (original), one copy each of all supplementary material, and the application (Form No. S.3) is returned to the subdivider. Duplicate copies are filed with the Plan Commission secretary and the Building Commissioner.

Filing

The subdivider files the final plat with the County Recorder within 90 days following Plan Commission approval; otherwise, such approval shall expire.

No lots shall be sold from such plat until it is duly recorded.

(File in triplicate)

Form No. S.3

APPLICATION FOR APPROVAL OF FINAL PLAT
(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Plat Submitted (within one year after
conditional approval date): _____

Received by: _____ Title: _____
(P.C. Sec. or Bldg. Commr.)

Form No. S.2 Application Number: _____

1. Applicant=s Name: _____
Address: _____
Phone: _____

2. Present Owner (if other than above)
Name: _____
Address: _____
Phone: _____

3. Final plat designed by: _____
Profession: _____
Address: _____
Phone: _____

4. Date of conditional approval of preliminary plat: _____

5. Does the final plat conform exactly to the preliminary plat in regard to details and area covered?
_____ If not, indicate material changes: _____

6. Number of lots proposed for final approval: _____

7. List of maps or other material accompanying application, and number of each (3 minimum)

<i>Item</i>	<i>Number</i>
a.	
b.	
c.	
d.	
e.	

f.

g.

Signature of applicant: _____

Date: _____

ACTION OF THE PLAN COMMISSION Date Considered: _____
(not less than 45 days after receipt)

A. Extension of time limit for plat submission requested by applicant (yes or no) _____;
(date) _____; approved _____ or denied _____ by Plan Commission (date) _____

B. Extension date granted by Plan Commission: _____

C. If extension denied, is conditional approval void? _____

D. Cost of improvements and installations as estimated by Plan Commission \$ _____

E. Changes or additional information necessary before final approval can be given _____

F. Changes made (date) _____

G. Final approval given (date) _____
Disapproval _____

H. Applicant notified (date) _____

Plan Commission President

Plan Commission Secretary

(File in triplicate)

Form No. S. 3a

FINAL PLAT ADMINISTRATIVE CHECKLIST
(for subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Submitted: _____

Name of Subdivision: _____

Name of Applicant: _____

Name of Owner: _____

Final Plat designed by: _____

I. PLAT CONTENTS

1. Description

- a__ Scale (100 feet to one inch or larger)
- b__ Key map
- c__ North point
- d__ Date
- e__ Subdivision title (name)
- f__ Name and certification of the registered professional engineer or land surveyor who prepared plat
- g__ Location by section, township and range ___ or by other legal description _____
- h__ Description of all section corners and permanent monuments in or near the tract
- i__ Subdivision referenced to one of the above monuments
- j__ Locations, size and type and material of all monuments and lot markers which are required to be installed

2. Existing Conditions

- a__ The location of all common boundary corners of all adjoining lands and adjacent streets with their widths and names
- b__ The names of adjoining subdivisions and the names of record owners of adjoining subdivisions and the names of record owners of adjoining parcels of unplatted land

3. Proposed Conditions

- a__ The boundary lines of the area being subdivided in heavy lines with accurate distances

and bearings

b___ The property lines of all proposed streets and alleys with their widths, names, bearings and centerline measurements

c___ The accurate boundary lines of all grounds for public use, the acreage of the same, and with the area marked APublic@

- d__ All lot lines with as many bearings as necessary to describe each line and an identification system of lots, blocks and other areas. The blocks should be numbered consecutively throughout the entire subdivision plat and the lots numbered consecutively throughout each block, with areas to be excluded from platting marked AReserved@ or ANot a Part@
 - e__ Easements for public use, services or utilities and their dimensions shown by light, dashed lines
 - f__ Deflection angles, arc lengths, radii, tangent lengths and points of tangency for all curvilinear street centerlines. Deflection angles, arc lengths, radii, chord lengths and bearings and points of tangency for all curvilinear property lines and radii for all rounded corners
 - g__ Building setback lines, with dimensions
 - h__ Check for conformity with preliminary layout
4. Certifications (to be accompanied by or shown on the plat)
- a__ Proper acknowledgment of consent to plat restrictions by all parties having any record, legal right, title or interest in the property
 - b__ Protective covenants or private restrictions in the form for recording
 - c__ Owner=s Certificate and Dedication, signed
 - d__ Engineer=s or Land Surveyor=s Certificate of Survey, signed, and his or her seal
 - e__ Certificate for release of mortgage for any portion dedicated to the public
 - f__ Reference to any separate instruments, including restrictive covenants, filed in the Office of the County Recorder which directly affect the land being subdivided
 - g__ Certificate of Plan Commission approval
 - h__ Certificate of Town Council=s acceptance of streets, alleys, easements, and public land dedications
 - i__ Certificate of Town Attorney approving plat as to legality and form
 - j__ Certification of licensed engineer, licensed surveyor, qualified sanitarian, or a professional consulting soil scientist, certifying (when required) that the soil suitability survey or percolation tests are true

II. CONSTRUCTION PLANS

- 1__ Street plans and profiles
- 2__ Typical cross-section of street pavements
- 3__ Street signs
- 4__ Plan and profiles showing location and size of all underground utilities and structures,

including sanitary and storm sewers, water, gas, electricity and telephone
5__Fire hydrants

- 6 Notice from Town Council, dated _____, stating that there has been filed with and approved by that body, one of the following:
 - a ___ A certificate by a registered professional engineer or land surveyor stating that all improvements and installations for the subdivision required for its approval have been made or installed in accordance with specifications; or
 - b ___ A bond in the amount of \$ _____ (sufficient to complete improvements) received on (date) _____
- 7 ___ Bond provides corporate surety satisfactory to the Plan Commission, and specifies the time for completion of the improvements (not longer than two years from date of final plat approval)
- 8 ___ Date improvements must be completed by: _____
- 9 ___ Bond released by Town Council (date) _____
- 10 ___ Two year maintenance bond received by Town Council (date) _____
- 11 ___ Maintenance bond provides corporate surety satisfactory to Plan Commission
- 12 ___ Maintenance bond released by Town Council (date) _____

III. INSPECTION OF IMPROVEMENTS

- 1 ___ Certified check or money order made in advance of any construction, payable to the town, in the amount of \$ _____ (12% of II, 6.b. above) to defray a part of the costs incurred in inspecting the installation of improvements. Date received: _____
- 2 ___ Notification to the Town Street Commissioner made at least 48 hours before construction or installation of streets and improvements commenced. Date notified: _____ date commenced: _____

IV. PLAN COMMISSION ACTION

- 1 ___ Conforms to provisions of subdivision regulations, zoning ordinance, master plan, and other regulations
- 2 ___ Final approval made by Plan Commission (date) _____
- 3 ___ Copy of Form No. S.3. filed with Plan Commission Secretary
- 4 ___ Duplicate copy filed with Building Commissioner
- 5 ___ Duplicate copy given to applicant Date: _____

V. RECORDING

- 1 ___ Final plat recorded (date) _____ with endorsements and required certificates thereon
- 2 ___ Recording date is not more than 90 days following final approval. (If more, then final approval is expired and needs reinstating)

5. ALTERNATE STEP 4 MINOR SUBDIVISION FINAL PLAT AND RELATED FORMS.

Alternate Step 4
Minor* Subdivision Final Plat

The Subdivider submits plans and specifications for improvements to the Town Council, installs improvements according to Subdivision Regulations, or posts a bond guaranteeing the installations. If installations are to be made before final plat approval, then an advance inspection fee should be paid to the town.

Application

The subdivider submits 3 copies each of the final plat; completed application form (No. S.4), street and utility improvement plans, topographic data, protective covenants in the form for recording, a notice from Town Council stating that all improvements and installations have been made in accordance with specifications and that a two-year maintenance bond has been posted, or a notice from Town Council stating that a bond has been posted to complete all improvements and installations within two years from final plat approval date, and the application fee.

The submissions shall be made to the Plan Commission Secretary or Building Commissioner within one year after sketch plan approval date, but at least 45 days prior to desired final consideration meeting.

Preliminary Processing

The Plan Commission Secretary or Building Commissioner reviews the application and fee for completeness and that the required attachments, including number of copies, are submitted with the final plat; refers copies of the same to the Town Engineer, Town Attorney and Plan Commission; and informs the subdivider of the date of the meeting at which consideration will be given (the subdivider should be present to answer questions).

The Town Attorney reviews and approves the bond surety, final plat, and protective covenants as to legal form and content. The Town Council reviews plans and specifications for improvements; and street, alley, easement and public land dedications. The Town Engineer reviews plans and specifications for improvements and plat contents.

* A minor subdivision, so designated for the purposes of procedural modifications, is defined as a subdivision which results in no more than two platted lots, neither of which involves a new street or street realignment.

Review

Within 60 days after receipt of application, final plat and supplementary material, the Plan Commission, Town Engineer, and Town Attorney shall review them for their conformance with the provisions of the subdivision regulations. If not in conformance, they shall be returned to the subdivider with its recommended changes or additional information necessary before a public hearing will be held. If in conformance, the plan commission shall accept them and notify the subdivider in writing of same, set a date for public hearing, notify the subdivider in writing of set date, and cost of publishing the legal hearing notification (to be paid by the subdivider).

Hearing

At least 10 days prior to the hearing date, the Plan Commission shall publish in a newspaper of general circulation within its town a notice of the time and place of the hearing. Additional notification to any person or governmental agency having a probable interest in the proposed plat might also be given, if the Plan Commission deems it necessary.

Approval

Following the public hearing, the Plan Commission shall notify the subdivider of any changes deemed necessary as a result of the hearing before final approval can be granted. If no changes are necessary, or when such changes have been made, the Plan Commission president and secretary shall be directed to affix its seal and certifying signatures on the plat.

Final Processing

The Plan Commission, after it affixes its seal and signatures on the plat, shall forward the plat to the Town Council for their approval and signatures. After its approval, the Town Attorney would then approve and sign the plat.

If improvements have not been installed, the subdivider will be directed to pay the inspection fee before he or she proceeds with any construction or installations.

The final plat (original), one copy each of all supplementary material, and the application (Form No. S.4) is returned to the subdivider. Duplicate copies are filed with the Plan Commission secretary and the Building Commissioner.

Filing

The subdivider files the final plat with the County Recorder within 90 days following Plan Commission approval; otherwise, such approval shall expire.

No lots shall be sold from such plat until it is duly recorded.

(File in triplicate)

Form No. S.4.

APPLICATION FOR APPROVAL OF FINAL PLAT
(for minor* subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Plat Submitted (within one year after sketch
plan approval date) : _____

Received by: _____ Title: _____
(P.C. Sec. or Bldg. Commr.)

Form No. S.1 Pre-application Number: _____

Date classified as minor subdivision: _____

1. Applicant=s Name: _____
Address: _____
Phone: _____

2. Present Owner (if other than above)
Name: _____
Address: _____
Phone: _____

3. Final plat designed by: _____
Profession: _____
Address: _____
Phone: _____

4. Interest of applicant (if other than owner): _____

5. Date of approval of sketch plan: _____

6. Number of proposed lots: _____

7. Area of entire tract _____, and portion being subdivided _____

8. Does the final plat conform exactly to the sketch plan in regard to details and area covered?
If not, indicate material changes: _____

9. Location of subdivision (describe): _____

10. Development plans: _____
a. Sell lots only? (yes or no) _____
b. Construction of houses for sale (yes or no) _____
c. Other _____

11. Deed restrictions or protective covenants that apply or are contemplated: _____
(If no restrictions or covenants, state ANone@, if AYes@ attach three copies)

*A minor subdivision, so designated for the purposes of procedural modifications, is defined as a subdivision which results in no more than two platted lots, neither of which involves a new street or street realignment

12. List of maps or other material accompanying application, and number of each (3 minimum):

<i>Item</i>	<i>Number</i>
a.	
b.	
c.	
d.	
e.	
f.	
g.	

13. Fee paid \$ _____
(Payable to Town Clerk-Treasurer)

Signature of applicant: _____ Date: _____

ACTION OF PLAN COMMISSION Date Considered: _____
(not less than 45 days nor more than 60 days after receipt)

A. Extension of time limit for plat submission requested by applicant (yes or no) _____;
(date) _____; approved _____ or denied _____ by Plan Commission (date) _____

B. Extension date granted by Plan Commission: _____

C. If extension denied, is sketch plan approval void? _____

D. Cost of improvements and installations as estimated by Plan Commission \$ _____

E. Application accepted as being in conformance with provisions of subdivision regulations (yes or no) _____

If Applicant state recommended changes or additional information necessary before public hearing will be held: _____

F. Applicant notified of acceptance: _____ Date: _____

G. Date set for public hearing: _____

1. Notification to applicant (date) _____

2. Notification by publication (date) _____

3. Cost of publishing (to be paid by applicant) \$ _____

H. Public hearing held (date) _____

I. Changes necessary as a result of public hearing: _____

- J. Changes made (date) _____
- K. Final approval given (date) _____ Disapproval _____
- L. Applicant notified (date) _____

Plan Commission President

Plan Commission Secretary

(File in triplicate)

Form No. S.4a

FINAL PLAT ADMINISTRATIVE CHECKLIST
(for minor subdivision plat review)

OGDEN DUNES PLAN COMMISSION

Application No.: _____ Date Submitted: _____

Name of Subdivision: _____

Name of Applicant: _____

Name of Owner: _____

Final Plat designed by: _____

I. PLAT CONTENTS

1. Description

- a__ Scale (100 feet to one inch or larger)
- b__ Key map
- c__ North point
- d__ Date
- e__ Subdivision title (name)
- f__ Name and certification of the registered professional engineer or land surveyor who prepared plat
- g__ Location by section, township and range ___ or by other legal description _____
- h__ Description of all section corners and permanent monuments in or near the tract
- i__ Subdivision referenced to one of the above monuments
- j__ Locations, size and type and material of all monuments and lot markers which are required to be installed

2. Existing Conditions

- a__ The location of all common boundary corners of all adjoining lands
- b__ The names of adjoining subdivisions and the names of record owners of adjoining parcels of unplatted land
- c__ Location, width and names of existing platted streets, railroads _____, utility rights-of-way _____, parks or open space _____, permanent buildings _____, section lines _____, municipal corporation lines _____
- d__ Location, size and grade of existing drainage ditches _____, sewers, water main _____,

culverts____, other underground facilities____ (within or adjacent to the tract)
e __ Topography data____, intervals (specify)____ (not more than five feet, nor less than
one foot) (1) on plat? _____ (2) on separate sheet? _____
f __ Existing zoning of tract_____ and adjacent tracts _____

3. Proposed Conditions

- a___ The boundary lines of the area being subdivided in heavy lines with accurate distances and bearings
- b___ The accurate boundary lines of all grounds for public use, the acreage of the same, and with the area marked APublic@
- c___ All lot lines with as many bearings as necessary to describe each line and an identification system of lots, blocks and other areas. Areas to be excluded from platting should be marked AReserved@ or ANot a Part@
- d___ Easements for public use, services or utilities and their dimensions shown by light, dashed lines
- e___ Deflection angles, arc lengths, radii, tangent lengths and points of tangency for all curvilinear street centerlines. Deflection angles, arc lengths, radii, chord lengths and bearings and points of tangency for curvilinear property lines and radii for all rounded corners
- f___ Building setback lines, with dimensions
- g___ Check for conformity with sketch plan layout

4. Certifications (to be accompanied by or shown on the plat)

- a___ Proper acknowledgment of consent to plat restrictions by all parties having any record, legal right, title or interest in the property
- b___ Protective covenants or private restrictions in the form for recording
- c___ Owner=s Certificate and Dedication, signed
- d___ Engineer=s or Land Surveyor=s Certificate of Survey, signed, and his or her seal
- e___ Certificate for release of mortgage for any portion dedicated to the public
- f___ Reference to any separate instruments, including restrictive covenants, filed in the Office of the County Recorder which directly affect the land being subdivided
- g___ Certificate of Plan Commission approval
- h___ Certificate of Town Council=s acceptance of streets, alleys, easements, and public land dedications
- i___ Certificate of Town Attorney approving plat as to legality and form
- j___ Certification of licensed engineer, licensed surveyor, qualified sanitarian, or a professional consulting soil scientist, certifying (when required) that the soil suitability survey or percolation tests are true

II. CONSTRUCTION PLANS

- 1___ Street plans and profiles

2__Typical cross-section of street pavements

3__Street signs

4__Plan and profiles showing location and size of all underground utilities and structures,
including sanitary and storm sewers, water, gas, electricity and telephone

5__Fire hydrants

- 6 Notice from Town Council, dated _____, stating that there has been filed with and approved by that body, one of the following:
 - a ___ A certificate by a registered professional engineer or land surveyor stating that all improvements and installations for the subdivision required for its approval have been made or installed in accordance with specifications; or
 - b ___ A bond in the amount of \$ _____ (sufficient to complete improvements) received on (date) _____
- 7 ___ Bond provides corporate surety satisfactory to the Plan Commission, and specifies the time for completion of the improvements (not longer than two years from date of final plat approval)
- 8 ___ Date improvements must be completed by: _____
- 9 ___ Bond released by Town Council (date) _____
- 10 ___ Two year maintenance bond received by Town Council (date) _____
Amount \$ _____ (equal to 20% of 6.b. above)
- 11 ___ Maintenance bond provides corporate surety satisfactory to Plan Commission
- 12 ___ Maintenance bond released by Town Council (date) _____

III. APPLICATION AND FEE

- 1 ___ Three (3) copies each of final plat _____ street and utility improvements plan (if on separate sheet) _____, topographic data (if on separate sheet) _____, protective covenants _____, other _____
- 2 ___ Application fee: Amount \$ _____ Form: _____
- 3 ___ Application received four (4) or more days prior to Plan Commission consideration?
- 4 ___ Review of plat and supplementary material given within 60 days after submitted?
- 5 ___ Were the questions on Form No. S.1a asked again?

IV. INSPECTION OF IMPROVEMENTS

- 1 ___ Certified check or money order made in advance of any construction, payable to the town, in the amount of \$ _____ (12% of II, 6.b. above) to defray a part of the costs incurred in inspecting the installation of improvements. Date received: _____
- 2 ___ Notification to the Town Street Commissioner made at least 48 hours before construction or installation of streets and improvements commenced. Date notified: _____
date commenced: _____

V. PLAN COMMISSION ACTION

- 1 ___ Conforms to provisions of subdivision regulations, zoning ordinance, master plan, and other

regulations

- 2__Final approval made by Plan Commission (date) _____
- 3__Copy of Form No. S.4. filed with Plan Commission Secretary
- 4__Duplicate copy filed with Building Commissioner
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VI. RECORDING

1__Final plat recorded (date) _____ with endorsements and required certificates thereon

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