

**Ogden Dunes General Code Review Committee
Meeting Minutes**

Tuesday, August 17, 2020 - 7:00 PM online.

Member	Present		Member	Present
Richard Meister, Chair	X		Jim Slawinski	X
Ken Thompson, Sec	X		Lynn Toomey	X
Connie Collins	X		Nate Ball, TC Member	X
David Hollar	X		Doug Cannon, TC Member	X
Mike Shaefer	X			

Meeting called to order at 7:08 p.m.

Approval of Minutes from the Monday, July 20, 2020 regular meeting. Approved as written by unanimous consent.

Town Council actions – Dick Meister

Dick went through the various proposals we have submitted to Town Council and reported on their progress.

Penalty Structure in the Ordinances – Jim Slawinski

Jim shared the various changes needed to provide a more rationale and consistent penalty structure for the many of the town ordinances. These follow below. We voted and unanimously approved the changes. Jim was commended for the worked needed to sort all of these out and his meetings with Marshal Reeder to understand how the penalties are applied.

Meeting **adjourned** at 828p

Next meeting – September 21, 2020 location and format (online or not) to be determined

GRC No. _____

**GENERAL CODE REVIEW COMMITTEE
RECOMMENDED CHANGES TO TOWN CODES FOR TOWN COUNCIL
APPROVAL**

TOWN CODE TITLE, CHAPTER, SECTION, STATUTORY REFERENCES:

Revision of Ordinance **10.99 General Penalty**, then revising multiple ordinance penalties referring them to **Ordinance 10.99** to provide a consistent set of penalties for violations of said ordinances.

CURRENT CODE LANGUAGE:

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Power to prescribe fines up to \$2,500 granted, see I.C. 36-1-3-8(a)(10)

PROPOSED CODE LANGUAGE:

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a **minimum fine of \$50 if paid to the Clerk-Treasurer within one to five days following the date of violation; thereafter the fine shall be \$100 for up to 30 days following the violation. Failure to pay the fine within 30 days will result in legal action being taken by the Town attorney with a maximum fine of up to \$2,500 plus all related attorney fees and all associated court cost. Separate Offence Each Day in which violation occurs or continues (NC)**

CURRENT CODE LANGUAGE:

51.99 PENALTY. (Garbage)

(A) Any person, firm or corporation violating any of the terms of this chapter shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation and/or five days of the issuance of a citation; and thereafter shall be subject to a fine of \$100 for the violation if docketed with the Porter County Courts.

(B) Everyday that any violation of any provision of this chapter occurs or continues shall constitute a separate offense.

(C) Any violation of the container requirements and use regulations of this chapter shall constitute a nuisance and the penalty provisions of the Nuisance Code provisions may be applied.

(D) Any person, firm or corporation violating the terms of this chapter shall reimburse the town for any damages sustained by reason of such violations. This section shall not be construed to limit the remedies of the town for violations of the terms of this chapter but shall be construed to supplement any existing remedies available to the town.

(99 Code, § 6-157) (Ord. 574, passed 11-4-91; Am. Ord. 655, passed 12-6-99; Am. Ord. 696, passed 11-7-05)

PROPOSED CODE LANGUAGE:

51.99 PENALTY. (Garbage)

A) **See General Penalty 10.99**

B) Any violation of the container requirements and use regulations of this chapter shall constitute a nuisance and the penalty provisions of the Nuisance Code provisions may be applied.

(C) Any person, firm or corporation violating the terms of this chapter shall reimburse the town for any damages sustained by reason of such violations. This section shall not be construed to limit the remedies of the town for violations of the terms of this chapter but shall be construed to supplement any existing remedies available to the town.

('99 Code, § 6-157) (Ord. 574, passed 11-4-91; Am. Ord. 655, passed 12-6-99; Am. Ord. 696, passed 11-7-05)

CURRENT CODE LANGUAGE:

§ 70.05 MOTOR VEHICLE IMPOUND FEE. (Traffic Code)

The town hereby establishes a fee of \$25 to be collected from the owner of any motor vehicle impounded by the Police Department. The fee shall be collected by the Police Department prior to release of the motor vehicle. All fees received pursuant to this section shall be deposited into the LECE Fund, with the intent that said funds be utilized for Police Department equipment and/or training. (Ord. 703, passed 7-10-06; Am. Ord. 728, passed 12-29-08)

PROPOSED CODE LANGUAGE:

§ 70.05 MOTOR VEHICLE IMPOUND FEE. (Traffic Code)

The town hereby establishes a fee of **\$50** to be collected from the owner of any motor vehicle impounded by the Police Department. The fee shall be collected by the Police Department prior to release of the motor vehicle. All fees received pursuant to this section shall be deposited into the LECE Fund, with the intent that said funds be utilized for Police Department equipment and/or training. (Ord. 703, passed 7-10-06; Am. Ord. 728, passed 12-29-08)

CURRENT CODE LANGUAGE:

§ 70.99 PENALTY. (Traffic Code)

Unless otherwise provided, any person, firm, or corporation who parks, drives, operates, or controls any vehicle within the town in any manner prohibited by the terms of this Title, or contrary to, or in violation of any section, part or provision of this Title, shall be subject to a minimum fine of \$50, if paid to the Clerk-Treasurer within one to five days following the date of violation; thereafter the fine shall be \$100 for up to 30 days following the violation. Failure to pay the violation or fine within 30 days will result in legal action being taken by the Town Attorney with a maximum fine of up to \$2,500.

('99 Code, § 8-67) (Ord. 655, passed 12-6-99; Am. Ord. 728, passed 12-29-08; Am. Ord. 778, passed 4-1-13)

PROPOSED CODE LANGUAGE:

§ 70.99 PENALTY. (Traffic Code)

See General Penalty 10.99

CURRENT CODE LANGUAGE:

§ 71.99 PENALTY. (Traffic Rules)

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be subject to the provisions of § 70.99.

(B) The Town Council has been given the power to make such designations by the State of Indiana to assess penalties for violations thereof under I.C. 9-21-1-1 et seq. Any person operating a vehicle in a direction other than indicated by § 71.01 or by Chapter 73, Schedule I, shall be deemed to be in violation of that section and, upon conviction, shall be fined in the amount of not less than \$1 nor more than \$25 provided that in lieu of such person being charged in court for the penalty, such person in violation thereof may pay the sum of \$25 within five days of the violation to the Clerk-Treasurer. (‘99 Code, § 8-28)

(C) Any person driving a vehicle in violation of § 71.02 or Chapter 73, Schedule II, shall be fined in an amount not less than \$1 nor more than \$25.
(‘99 Code, § 8-38)

(D) Any person violating the provisions of §§ 71.03, 71.04, or Chapter 73 Schedules III or IV shall be guilty of an infraction and upon conviction shall be fined not less than \$1 nor more than \$100, or in the alternative, may within five days of the arrest, pay into the Clerk-Treasurer’s office the sum of \$25 cash, taking receipt thereof.
(‘99 Code, § 8-51)

(E) Any person, firm or corporation convicted of violating any of the terms of § 71.06 shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation, and thereafter, shall be subject to a fine of \$100 for such violation. Each and every day that such violation is committed or permitted to continue shall constitute a separate and distinct offense.

(F) Any violation of § 71.07 shall be subject to a fine of up to \$2,500 per occurrence, with each day being a separate occurrence.
(‘99 Code, § 8-61) (Ord. 550, passed 3-5-90; Am. Ord. 557, passed 5-7-90; Am. Ord. 655, passed 12-6-99; Am. Ord. 733, passed 2-23-09)

Proposed Code Language

§ 71.99 PENALTY. (Traffic Rules)

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided shall be subject to the provisions of § 70.99.

(B) The Town Council has been given the power to make such designations by the State of Indiana to assess penalties for violations thereof under I.C. 9-21-1-1 et seq. Any person operating a vehicle in a direction other than indicated by § 71.01 or by Chapter 73, Schedule I, shall be deemed to be in violation of that section and, **upon conviction?**, shall be fined **as specified in General Penalty 10.99** (‘99 Code, § 8-28)

(C) Any person driving a vehicle in violation of § 71.02 or Chapter 73, Schedule II, shall be fined **as specified in General Penalty 10.99**.
(‘99 Code, § 8-38)

(D) Any person violating the provisions of §§ 71.03, 71.04, or Chapter 73 Schedules III or IV shall be guilty of an infraction and upon conviction shall be fined **as specified in General Penalty 10.99.** ('99 Code, § 8-51)

(E) Any person, firm or corporation convicted of violating any of the terms of § 71.06 shall be subject to a fine **as specified in General Penalty 10.99.**

(F) Any violation of § 71.07 shall be subject to a fine **as specified in General Penalty 10.99.** ('99 Code, § 8-61) (Ord. 550, passed 3-5-90; Am. Ord. 557, passed 5-7-90; Am. Ord. 655, passed 12-6-99; Am. Ord. 733, passed 2-23-09)

CURRENT CODE LANGUAGE:

§ 90.99 PENALTY. (ABANDONED VEHICLES)

(A) If any such notice as provided in § 90.03 is not obeyed within the time fixed, the owner of the abandoned car, the occupant and/or owner of the real estate upon which it is located, shall each be subject to a civil penalty of not less than \$50 and not to exceed \$100. Each day on which the abandoned car is permitted to remain on the real estate after the time fixed in the notice shall constitute a separate offense.

(B) The owner of a junk car and an occupant and/or owner of the real estate upon which it is located shall each be subject to a civil penalty not less than \$50 and not to exceed \$100 severally. Each day on which the junk car is permitted to remain on the real estate or on public or private property shall constitute a separate offense.

('99 Code, § 6-109) (Ord. 655, passed 12-6-99)

Cross-reference:

Penalty for creating or maintaining nuisance, see § 93.99

PROPOSED CODE LANGUAGE:

§ 90.99 PENALTY. (ABANDONED VEHICLES)

See penalty as specified under General Penalty 10.99

Penalty for creating or maintaining nuisance, see § 93.99

CURRENT CODE LANGUAGE:

§ 91.99 PENALTY. (ANIMALS)

Any person who violates any provision of this chapter shall be fined in the sum of \$100 for each violation; provided that in lieu of such person being charged for such violation in court, such person in violation hereof may pay the sum of \$25 within five days of the violation to the Clerk-Treasurer. ('99 Code, § 6-19) (Ord. 490, passed 5-3-82)

PROPOSED CODE LANGUAGE:

§ 91.99 PENALTY. (ANIMALS)

See penalties as specified in section 10.99

CURRENT CODE LANGUAGE:

§ 92.99 PENALTY. (Fire Prevention)

(A) Any person, firm or corporation violating any of the terms of this chapter shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation; and thereafter shall be subject to a fine of \$100 for the violation.

(B) A first violation of § 92.16 shall subject the offender to a \$100 fine before the Ordinance Violations Bureau. Any subsequent violations of § 92.16 shall subject the offender to a fine of up to \$2,500 per violation.

('99 Code, §§ 6-79, 6-87) (Ord. 655, passed 12-6-99; Am. Ord. 714, passed 6-18-07)

PROPOSED CODE LANGUAGE

§ 92.99 PENALTY. (Fire Prevention)

See penalties as specified in section 10.99

CURRENT CODE LANGUAGE:

§ 93.99 PENALTY. (Nuisances)

(A) In addition to any and all other remedies set forth in this chapter, either the Building Commission, the Town Marshal, the Plan Commission and/or the Board of Zoning Appeals may, for any violation of this chapter, levy a fine against the violator of \$50 for each occurrence, each day being a separate violation.

(B) If the fine is not paid to the Clerk-Treasurer within five days of the violation, the fine shall automatically be \$100 per violation, each day being a separate occurrence. The fine shall be paid to the Clerk-Treasurer as the Ordinance Violations Bureau.

(C) If the \$100 fine is not paid to the Clerk-Treasurer within an additional 25 days (30 days from the date of the violation), this matter shall be prosecuted in the Porter County court system, and the violator shall be subject to a fine of up to \$2,500 per occurrence, with each day being a separate violation.

(D) In addition, any person violating this chapter shall pay and be responsible for all attorney fees incurred by the town in enforcing the provisions of this chapter.

(E) Extraordinary or multiple violations by the same person may result in an assessment of an additional fine, not to exceed \$2,500 per occurrence and pursued through legal court proceeding. ('99 Code, § 6-67) (Ord. 553, passed 3-5-90; Am. Ord. 716, passed 7-18-07)

PROPOSED CODE LANGUAGE

§ 93.99 PENALTY. (Nuisances)

(A) See penalties as specified in section 10.99

(B) Extraordinary or multiple violations by the same person may result in an assessment of an additional fine, not to exceed \$2,500 per occurrence and pursued through legal court proceeding. ('99 Code, § 6-67) (Ord. 553, passed 3-5-90; Am. Ord. 716, passed 7-18-07)

CURRENT CODE LANGUAGE:

§ 94.99 PENALTY. (Parks and Recreation)

Any person who violates any provision of this chapter shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation, and thereafter shall be subject to a fine of \$100 for a violation.

('99 Code, § 5-34) (Ord. 655, passed 12-6-99)

PROPOSED CODE LANGUAGE

§ 94.99 PENALTY. (Parks and Recreation)

See penalties as specified in section 10.99

CURRENT CODE LANGUAGE:

§ 96.99 PENALTY. (non-smoking areas)

A) Any employee of the town who violates this chapter shall be subject to disciplinary action and fines set forth below.

(B) Any person, who is not an employee of the town and violates this chapter, shall be punished by a fine of \$100 for a first violation, and \$200 for a second or subsequent violation; all of which shall be paid within 30 days of said violation to the Ordinance Violations Bureau. Any failure to pay the prescribed fine for said violation within 30 days of the violation, or any subsequent violations of this chapter by the same person, shall subject the offender to a fine of not less than \$200 nor more than \$2,500 for each violation along with court costs imposed by a court of competent jurisdiction in Porter County. Each day in which a violation of this chapter occurs shall be considered a separate and distinct violation.

(Ord. 766, passed 7-2-12)

PROPOSED CODE LANGUAGE

§ 96.99 PENALTY. (non-smoking areas)

See penalties as specified in section 10.99

CURRENT CODE LANGUAGE:

§ 111.99 PENALTY. (Peddlers)

Any person convicted of violating any of the provisions of this chapter shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation, and thereafter shall be subject to a fine of \$100 for the violation.
(99 Code, § 4-35) (Ord. 655, passed 12-6-99)

PROPOSED CODE LANGUAGE

§ 111.99 PENALTY. (Peddlers)

See penalties as specified in section 10.99

CURRENT CODE LANGUAGE:

§ 130.99 PENALTY. (General Offenses)

(A) Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

(B) Any person, firm, or corporation violating any of the provisions of § 130.04 shall be subject to a minimum fine of \$25 if paid to the Clerk-Treasurer within five days of the violation; and thereafter shall be subject to a fine of \$100 for such violation.

(C) The fine for a first violation of § 130.05 shall be \$250 and any subsequent violations of § 130.05 by the same person shall be subject to the General Penalty provisions contained in § 10.99 of the Town Code.

(99 Code, § 6-96) (Ord. 385, passed 12-5-66; Am. Ord. 655, passed 12-6-99; Am. Ord. 747, passed 12-29-10; Am. Ord. 782, passed 4-15-13)

PROPOSED CODE LANGUAGE

§ 130.99 PENALTY. (General Offenses)

Whoever violates any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of § 10.99.

Please note: The penalty ordinances in Chapter 272, 95, 110 were already connected to 10.99 general penalty

RATIONALE FOR PROPOSED CHANGE: To provide a more rational and easier to administer penalty process (For a summary of the changes see included excel file.

THE FOLLOWING IS THE TOWN COUNCIL ACTION REGARDING THE ABOVE PROPOSED CODE CHANGES:

APPROVED THIS _____ DAY OF _____, 2020

DECLINED THIS _____ DAY OF _____, 2020

REFERRED TO (E.G., BUILDING CODE REVIEW FOR CHANGES, TOWN ATTORNEY, ETC.) FOR FURTHER CONSIDERATION:

CLERK-TREASURER SHALL MAINTAIN PAPER AND/OR ELECTRONIC RECORD OF ALL CHANGES APPROVED BY THE TOWN COUNCIL AND ARRANGE FOR PREPARATION OF AMENDED ORDINANCES, AS NEEDED, FOR INCLUSION IN A "RECODIFICATION OF THE PRESENT GENERAL AND PERMANENT ORDINANCES OF THE TOWN OF OGDEN DUNES" AS PROVIDED FOR IN ORDINANCE 648 OF THE TOWN OF OGDEN DUNES.