

**ORDINANCE NO. 824**

**AN ORDINANCE OF THE OGDEN DUNES TOWN COUNCIL  
AMENDING PORTIONS OF THE TEXT OF  
THE CODE OF ORDINANCES OF OGDEN DUNES, INDIANA**

WHEREAS, the Ogden Dunes General Code Review Committee and Plan Commission have reviewed certain portions of the Town's Code of Ordinances, including requirements concerning signs; and

WHEREAS, the Building Code Review Committee and Plan Commission recommends amendments to Section 152.002 and Section 152.047 of the Code of Ordinances; and

WHEREAS, the Plan Commission has held a public hearing regarding the amendments contained in this Ordinance; and

WHEREAS, the Plan Commission has certified its proposal to the Ogden Dunes Town Council; and

WHEREAS, the Ogden Dunes Town Council concurs in the recommendation of its Building Code Review Committee and Plan Commission.

NOW THEREFORE, be it and it is hereby ordained by the Ogden Dunes Town Council as follows:

**SECTION 1.** That Section 152.002 of the Ogden Dunes Town Code is hereby amended by the addition of the following definitions:

**Institutional use:** Each public or quasi-public building or lot (including, but not limited to, those buildings or lots owned by public or private educational institutions, churches, libraries, hospitals, and home or property owners' associations) and uses related to the public or quasi-public organizations.

**Sign:** Any device or visual communication, when the display of this device or visual communication is visible from any public right-of-way. The definition of sign does not include anything inside of a building, murals, fences, lawn ornaments, or decorations.

**Sign, Monument:** This is applicable to public or quasi-public buildings. Any ground-mounted sign with a base, which sign has a maximum height, including the base, of eight feet (8') as measured from existing, pre-construction (unaltered) grade.

**Sign, Nameplate:** A sign, non-illuminated and non-dynamic, either temporarily or permanently affixed to a single- or two-family dwelling serving for identification and not exceeding two (2) square feet in gross surface area.

**Sign, Public:** A sign, either permanent or temporary, which is authorized and erected by public officials of the United States, the State, or the Town for the public safety, health, and

welfare, including, but not limited to, traffic signs, other municipal signs, railroad crossing signs, danger, warning and other signs.

**Sign, Permanent, Street Number:** The numerals that correspond with the address of the lot, building, or structure. This sign is limited to 2 square feet or less and may include the name of the owner of the home or the name of the home. These are subject to the requirements and restrictions of Code of Ordinances, Title IX, General Regulations, Chapter 95.03 Address Numerals Required on Structures.

**Sign, Temporary:** A temporary sign is characterized by materials, construction, design, and placement that allow the sign to be easily removed and carried away. A temporary sign may not be attached to any structure, affixed to the real estate, or to any trees or poles located on the property, or otherwise be permanent in nature. Temporary signs may be no larger than three (3) square feet. The maximum area enclosed within a connected geometric shape completely enclosing, as a single unit, the shape of the sign face including both copy, background, and any frame or boxed display. The supporting structure of a sign that is not enclosed within the connected geometric shapes will not be considered as part of the gross surface area of the sign.

**Sign, Dynamic:** Any sign, or portion thereof, with characteristics that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. Dynamic signs are permitted only on public, institutional, and business properties

**Sign, Billboard:** A sign which is a separate structure permanently attached to a building, the ground, or attached to a permanent structure having a location upon the ground.

**Sign, Temporary, Public Safety:** Small informational signs, no larger than two (2) square feet, are allowed to warn the public of hazards and potential hazards, including but not limited to “No Trespassing,” “Beware of Dog,” etc.

**Sign, Bona Fide Triggering Event:** A bona fide triggering event is an occurrence which allows an owner or occupant to post an additional number of signs on their property for a period of time.

**SECTION 2.** That Section 152.047 of the Ogden Dunes Town Code shall be repealed and replaced in its entirety by the following:

#### **152.047 SIGNS.**

##### **(A) Statement of Findings, Purpose, Effect and Severability**

##### **(1) Findings:** The Town Council of Ogden Dunes hereby finds the following:

- (a)** Exterior signs have a substantial impact on the natural beauty, small town character and quality of life within the Town of Ogden Dunes.

- (b) Signs provide an important medium through which individuals and groups may convey a variety of messages.
- (c) Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare of the Town and its residents.
- (d) Therefore, the Town has an interest in regulating signs in an effort both to provide adequate means of expression for citizens, while at the same time to protect the Town and its citizens from a proliferation of signs of a type, size, location, and character that would adversely impact the aesthetics of the community and threaten the health, safety, and welfare of the community.
- (e) The regulation of the physical characteristics of signs within the Town has a positive impact on traffic safety, property values, and the appearance of the community.

(2) **Purpose.** This ordinance is not intended to regulate the message displayed on any sign, except where the sign contains speech or expressive content that is unprotected by the First Amendment of the United States Constitution, Article 1 Section 9 of the Indiana Constitution, or when Town has a compelling interest. The purpose of this ordinance is to:

- (a) Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the Town in order to promote the public health, safety, and welfare.
- (b) Maintain, enhance, and improve the aesthetic environment of the Town by preventing visual clutter that is harmful to the appearance of the community.
- (c) Protect property values within the Town.
- (d) Preserve the beauty and the unique character of the Town.
- (e) Ensure that signage is compatible with the character of the community
- (f) Improve the visual appearance of the Town while providing for effective means of communication, consistent with constitutional guarantees and the Town's goals of public safety and aesthetics. Provide for fair and consistent enforcement of the sign regulations set forth herein.

(3) **Effect.** A sign may be erected, mounted, displayed, or maintained in the Town if it is in conformance with the provisions of this ordinance. The effect of this ordinance, as more specifically set forth herein, is to:

- (a) Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively impact the environment and where there are ample alternative channels of communication with a lesser impact on the public health, safety, and welfare of the community; and
- (b) Provide for the enforcement of the provisions of this ordinance.

(4) **Severability.** If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision will not affect the validity of the remaining portions of this ordinance.

**(B) Residential District Sign Regulations:** The following regulations are applicable to Residential zoning districts. Only signs that conform to the following standards are allowed, provided that said signs do not project beyond the property line and do not extend into the public right of way.

**(1) Permanent Signage.**

The following are the only permanent signs allowed:

- (a) Sign, Permanent, Street Number;
- (b) Sign Permanent, Name Plate; and
- (c) Each public or quasi-public building or lot (including institutional uses and public uses) is permitted additional, permanent signage, excluding neon signs, not exceeding thirty-two (32) square feet in gross surface area.

## **(2) Temporary Signs**

- (a) Notwithstanding any other exception, there may be one (1) temporary signs posted on a lot at any time subject to the following: A temporary sign is allowable under this section if it is not greater than three (3) square feet in gross surface area. A temporary sign may not be dynamic or illuminated and may not exceed a maximum height of four (4) feet from grade. All temporary signs must be situated within the lot lines of the subject parcel and may not be situated in the public right of way.
- (b) Upon the occurrence of a bona fide triggering event or events, an owner or occupant may post additional temporary signs, up to the maximum number of allowable signs, as determined by the underlying bona fide triggering event, as long as the total cumulative number of temporary signs does not exceed seven (7). The following are the only types of triggering events which will trigger the right of a property owner or occupant to post additional temporary signage.
  - i. A primary, general, or special election taking place in the Town. A maximum of seven (7) temporary signs may be posted at any time thirty (30) days before and up to five (5) days after the election taking place in the Town.
  - ii. A public event occurring on the premises. There may be one (1) temporary signs posted at any time fourteen (14) days before and up to two (2) days after any event taking place or scheduled to occur on that property, which is opened to the public at large.
  - iii. A private event occurring on the premises. There may be one (1) temporary sign posted at any time seven (7) days before and up to two (2) day after an on-premises private event (i.e. by invitation only).
  - iv. The number of allowable temporary signs is cumulative, but at no time may there be more than seven (7) temporary signs on the property.
  - v. If an owner or occupant wishes to have a temporary sign larger than three (3) square feet, they must apply for a permit and pay a fee. [See schedule of Town Fees.] Such a sign may not be more than sixteen (16) square feet.
- (c) **Notwithstanding any other provision in this Section, Public Signs and signs sponsored by Institutional Uses shall be permitted on mailbox racks.**

**(C) Commercial District Sign Regulations:** The following regulations apply to all Commercial Zoning Districts:

- (1) A commercial building is permitted one (1) principal sign with a maximum gross surface area of eighty (80) square feet.
- (2) In addition to the sign permitted under Section 152.047(C)(1), each business located in a commercial zone is permitted a permanent sign on a door or immediately adjacent to the door, not to exceed six (6) square feet in gross surface area.

- (3) In addition to the signs permitted under Section 152.047(C)(1) and (2), a business located in a commercial zone is permitted a temporary sign no larger than twenty-four (24) square feet, with the highest point of the sign measuring no higher than six feet (6') off the ground.

**(D) Dynamic Signs.** Dynamic signs are permitted only on public or institutional property and must conform to the following regulations:

- (1) A dynamic sign may not be permitted where such sign will create a public nuisance or result in unsafe driving conditions.
- (2) A dynamic sign must not contain images that flash, scroll, turn, twinkle, or have any other type of movement. All images must be still.
- (3) The display screen on a dynamic sign must not change images more frequently than once every ten (10) seconds. Changes from one image to the next must fade gradually in a timeframe of not less than five (5) seconds.
- (4) All dynamic signs must come equipped with automatic dimming technology that automatically adjusts the brightness based on ambient light conditions. No dynamic sign may exceed 0.3 foot candles above ambient light.
- (5) Dynamic signs must not cause glare.
- (6) All dynamic signs must be equipped with adjustable light sensors capable of adjusting light intensity according to ambient light levels (i.e., day and night). If the light intensity of the dynamic sign is glaring, the building commissioner, or his designee, will notify the owner or the owner's representative, and the light intensity must be corrected within 24 hours of notification to the owner or the owner's representative. The owner must maintain at all times current notification contact information in the office of Building Commissioner.

**(E) Prohibited Signs.** The following signs are hereby expressly prohibited for erection, construction maintenance, repair, alteration, location, or relocation within the Town.

- (1). Flashing signs, excepting those public signs that give safety warnings.
- (2) Moving signs, streamers, pennants, beacons, ribbons, spinners or other similar devices shall not be constructed, posted, or erected.
- (3) Portable signs, inflatable signs or tethered balloons.
- (4) Signs with lamps or lights for letters, except neon signs.
- (5) Signs on fences, utility poles, mailboxes, street lights, or trees.
- (6) Signs which resemble or are confusingly similar to any official marker erected by the Town, State or other governmental unit or agency, or which by reason of position, shape or color would confuse or conflict with the proper functioning of any traffic sign or signal.

(7) Signs containing obscenity, or deemed harmful to public safety.

**(F) General Restrictions.** The following restrictions are applicable to all signs located in the Town:

(1) All size limitations listed elsewhere in this Ordinance are for gross surface area per display unless otherwise indicated.

(2) No sign may be placed in such a manner that it would block or obscure the vision of the driver of a motor vehicle stopped at a stop sign, traffic light, or entrance to a public street for a distance of 400 feet in any direction in which there is oncoming traffic.

(3) No sign may be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or public walkway.

(4) A permanent or monument sign must be securely built, constructed, and erected.

(5) The sign owner must properly maintain all parts and supports, including display surfaces, of the approved sign.

**(G) Enforcement.** If the Building Commissioner, the Code Enforcement Officer, the Town Marshal, or any of their designees find that any sign regulated herein is unsafe, or has been constructed, erected, or is being maintained in violation of the provisions of this Ordinance, a ten (10) day written notice shall be given to the owner or permittee thereof to remove the sign or structure or bring the same into compliance with this Ordinance. Failure to comply with said written notice is a violation of the Town Code. The Building Commissioner, the Code Enforcement Officer, the Town Marshal, or any of their designees may cause any sign or other structure, which is in immediate peril to person or property, to be removed summarily and without notice at the expense of the owner or permittee. All violations of this Ordinance will be subject to the notification and general penalty provisions found at Section 10.99 of the Ogden Dunes Town Code.

**SECTION 3.** This Ordinance shall be in full force and effect from and after its passage and adoption as provided by law.

ALL OF WHICH IS PASSED AND ADOPTED this \_\_\_\_, day of \_\_\_\_\_, 2017.

OGDEN DUNES TOWN COUNCIL

\_\_\_\_\_  
Tim Nelson, President

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Nate Ball

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Kathryn Kniola

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Scott Lehmann

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Michael Webber

ATTEST:

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Jean Manna, Clerk Treasurer