

## **ORDINANCE NO. 833**

### **AN ORDINANCE OF THE OGDEN DUNES TOWN COUNCIL AMENDING PORTIONS OF THE TEXT OF THE ZONING AND SUBDIVISION CONTROL ORDINANCE OF THE TOWN OF OGDEN DUNES, INDIANA**

WHEREAS, the Ogden Dunes Town Council has adopted a Zoning, and Subdivision Control Code of the Town of Ogden Dunes, Porter County, Indiana which is located at Chapter 152 of the Ogden Dunes Town Code; and

WHEREAS, the Ogden Dunes Advisory Plan Commission has initiated an amendment to the text portion of the Zoning and Subdivision Control Ordinance; and

WHEREAS, a public hearing has been held before the Town of Ogden Dunes Advisory Plan Commission, which has certified its proposal to amend the text of the Zoning and Subdivision Control Ordinance to the Ogden Dunes Town Council; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning this text amendment to the Zoning and Subdivision Control Ordinance; and

WHEREAS, the Ogden Dunes Town Council concurs with its Advisory Plan Commission and accepts its proposal to amend the text of the Zoning and Subdivision Control Ordinance;

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Ogden Dunes Town Council as follows:

**SECTION 1:** That Chapter 152 of the Ogden Dunes Town Code having to do with the Zoning Ordinance shall be amended and re-codified as Chapter 151, and hereafter read as follows:

#### **CHAPTER 151: ZONING REGULATIONS**

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## **ARTICLE I. GENERAL PROVISIONS**

### **151.001 AUTHORITY.**

A 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)

- (B) Each and every provision of this chapter whether styled as a Zoning Code or Subdivision Control Regulation 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)

### **151.002 DEFINITIONS.**

For the purpose of these chapters, 150, 151 152, 153, 154, 155, and 156 the following definitions shall apply unless the context clearly indicates or requires a different meaning. In addition to the Definition below, see

152.119 for additional definitions pertaining to Subdivision Control. 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 "Dwelling").

**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**.

**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 "structure."

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

Wherever the term “Building Commissioner” is used in this chapter it shall also mean any Deputy Building Commissioner appointed by the Ogden Dunes Town Council.

**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.

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

**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.

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

**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.

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

**COUNTY.** Porter County, Indiana.

**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.

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

**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.

**ENFORCEMENT AUTHORITY.** The Planning Commission of the town.

**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.(diameter breast height) will be removed.

***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).

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

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

***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.

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

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

***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.

***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 "plot" or "parcel."

**LOT, AREA.** See Area, Lot.

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

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

**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 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.)

**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.

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

**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).

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

**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.

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

**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 replat.

**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.

**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.

**RETAINING WALL.** A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

**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 "Building 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.

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

***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.

***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 legislative body of the Town of Ogden Dunes, Porter County 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.).

**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)

**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 “intended, 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 structures, except as otherwise provided in the Zoning Code.  
(`99 Code, 10-25) (Ord. 643, passed 3-2-98)

**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 151.015 through 151.049 (Article II) of this chapter. (Ord. 402, passed 8-25-69)

## **ARTICLE II. ZONING CODE**

### **GENERAL**

#### **151.015 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)

#### **151.016 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)

#### **151.017 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)

### **151.018 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***

### **151.030 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*

### **151.031 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)

### **151.032 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 151.999

### **151.033 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 access ways permitted in division (b) below, such buffer strip shall contain a curb or other suitable barrier against un-channeled 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 access ways to any one street or highway. The width of any access way 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 access ways 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 151.999

#### **151.034 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 therefore 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 151.999

#### **151.035 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 151.999

## ***SUPPLEMENTARY REQUIREMENTS AND REGULATIONS FOR ALL DISTRICTS***

### **151.045 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 3½ feet or 42 inches in height, may be permitted;
  - (b) Fences and/or privacy walls not exceeding 5½ 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.

#### **151.046 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, 10-80—10-91) (Ord. 643, passed 3-2-98) Penalty, see 151.999

#### **151.047 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. A maximum overall total of four open house realtor-related signs will be allowed on open house property and Town property within the timeframe of two hours before and two hours after each day of a realtor-related open house. As with lease or sale signs, the individual open house signs shall not exceed three feet in gross surface area. One name flyer per sign will also be allowed for proper realtor identification.
- (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

#### **151.024 RESIDENCE SPACE.**

In the event of any conflict between the construction standards required by this Section and the Indiana Building Code, the Indiana Building Code shall prevail.

(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 open out, 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:
  - (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.

- (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 open 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 151.999

## **§151.175 APPLICABILITY.**

The regulations contained in Sections 152.176 through 152.179 shall apply to all subdivisions and to all construction and land disturbing activities conducted within the Town, regardless of whether a permit is required.

## **§151.176 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.

(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.

(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 151.019 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:

- (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 non-protected tree such as the female populus (cottonwood).
- (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>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 therefore 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.

#### **§151.177 LAND DISTURBING ACTIVITIES.**

(A) *Purpose.* This Section 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.

(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.

(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 151.015 (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.

(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.

(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.

**§151.178 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.

(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.

#### **§151.179 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.

(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.

(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.

(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.

#### **151.048 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.

<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	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

- (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

#### **151.049 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 151.999

## **ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

### **151.201 RESPONSIBILITY.**

- (A) *Plan Commission; delegation of duties.*
  - (1) Responsibility for administering and enforcing all provisions of chapters 151 and 152 is conferred upon the Plan Commission of the town. The Commission may 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 Plan Commission.
- (B) *Building Commissioner.* On behalf and at the direction of the Commission, subject to compliance with state statutes, the Building Commissioner shall enforce all provisions of these chapters. 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.

## **151.202 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.

### *(D) Notification and violation.*

- (1) Written notice may be served by the Building Commissioner, the Town Marshal, , the Town Attorney, or the designee of those officials.

- (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 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)

## 151.203 FILING FEES

<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

## §151.204 ADVISORY BOARD OF ZONING APPEALS

A. Establishment - The Ogden Dunes Advisory Board of Zoning Appeals (hereafter “BZA”) is hereby re-established in accordance with I.C. 36-7-4-900, as same shall be amended from time to time.

B. Duties and Responsibilities – The BZA 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 BZA each year, the board shall elect a chairperson, vice-chairperson and a secretary from among its members.

(2) *Secretarial services.* The BZA 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.

C. Rules of Procedure - The BZA shall adopt rules concerning the filing of appeals, the application of variances, special exceptions, conditional uses, the giving of notice, the conducting of hearings, and all other matters within its jurisdiction. The rules of practice and procedure, regulations, and instructions of the BZA are attached to this Ordinance as an appendix. These rules may be changed at any time by the BZA by a majority vote of the entire membership without the necessity of a public hearing being held. Any such changes will automatically be deemed a change to this Ordinance.

D. Meetings and Records - All meetings of the BZA shall be open to the public, unless executive sessions are conducted in accordance with Indiana law. The BZA shall keep minutes of its meetings and all other official actions, prepare written findings of fact, and record of the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Clerk-Treasurer and shall be public records.

E. Conflict of Interest - A member of the BZA may not participate in a hearing or decision of the BZA concerning a matter in which he has a direct or indirect financial interest or for other reasons brought to the attention of the BZA and which disqualification is approved by the BZA. The BZA shall enter in its records the fact regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision. Said alternate member, if any, shall be appointed by the authority of the appointing body of the regular member who has been disqualified. Communication with BZA members by any person with intent to



influence action prior to a hearing or decision regarding matters pending before the BZA is prohibited. However, the staff may file with the BZA a written statement setting forth any facts or opinions relating to the matter.

F. The BZA shall also have all other powers and duties allowed by Indiana law.

## **151.999 PENALTY.**

- (A) All violations of Chapter 151, except for those described in sub-section (B), below shall be subject to a fine not to exceed \$2,500 for the first violation and not to exceed \$7,500 for the second and subsequent violations. Each day the violation shall continue to exist, or each distinct repetition of any violation shall constitute a separate offense. .
- (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 through the Town's Ordinance Violations Bureau, (\$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 151.045(A))
  - (2) Prohibited erection or display of signs, without permit (See 151.047(B)).  
(`99 Code, 10-30) (Ord. 643, passed 3-2-98)

**SECTION 2** That Chapter 152 of the Ogden Dunes Town Code shall be amended to contain only Subdivision Control Regulations, and hereafter read as follows:

## **CHAPTER 152- SUBDIVISION CONTROL**

## **Article I. Subdivision Control Regulations**

### ***General***

- 152.115 Authority
- 152.116 Short title
- 152.117 Purpose
- 152.118 Establishment of control
- 152.119 Definitions

### ***Procedures for Subdivision Approval***

- 152.130 Pre-application procedure
- 152.131 Procedures for conditional approval of preliminary plat
- 152.132 Procedures for approval of final plat

### ***Subdivision Design Standards***

- 152.145 General
- 152.146 Streets
- 152.147 Alleys
- 152.148 Easements
- 152.149 Lots
- 152.150 Planned unit development
- 152.151 Public sites and open spaces
- 152.152 Natural features

### ***Improvements***

- 152.165 General
- 152.166 Monuments and markers
- 152.167 Streets; street signs
- 152.168 Storm drainage
- 152.169 Underground utilities
- 152.170 Sewers
- 152.171 Water

### ***Administration of Subdivision Regulations***

- 152.185 Plat certificates
- 152.186 Inspection
- 152.187 Modifications
- 152.188 Amendments
- 152.189 Certiorari

## **Article II. Administration and Enforcement**

- 152.201 Responsibility
- 152.202 Offenses; Remedies
- 152.203 Filing Fees
- 152.999 Penalty

**Article V.** Appendix

Appendix A: Figure A Catch Basin and Drainage Field

Appendix B: Proposed Specifications for Soil Analysis

Appendix C: Subdivision Regulation Procedures and Forms

**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 Ind. Code § 36-7-4 *et seq.* (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
- (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 un-subdivided 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;



- (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 "Public;"
- (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 "Reserved" or "Not 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, un-subdivided 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 un-subdivided 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.
- (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.
- (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	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     - 1½ 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 liquefied 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 "U" 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 “the 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 judgment 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. Upon completion of the sewer installations, the plans “as 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.

(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 "easements" 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 judgment 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\_.

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\_\_\_\_\_.

Signature

(Acknowledgment)



*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 \_\_\_\_\_  
at 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 1½% 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 Ind. Code § 36-7-4 *et seq.*

## **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)

## **ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

## **152.201 RESPONSIBILITY.**

(A) *Plan Commission; delegation of duties.*

- (1) Responsibility for administering and enforcing all provisions of chapters 151 and 152 is conferred upon the Plan Commission of the town. The Commission may 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 Plan Commission.

(B) *Building Commissioner.* On behalf and at the direction of the Commission, subject to compliance with state statutes, the Building Commissioner shall enforce all provisions of these chapters. 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.

## **152.202 OFFENSES; REMEDIES.**

### *(A) Offenses.*

- (3) It is unlawful for any person, firm, individual, partnership or corporation to violate or fail to comply with this chapter.
- (4) 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.

### *(D) Notification and violation.*

- (1) Written notice may be served by the Building Commissioner, the Town Marshal, , the Town Attorney, or the designee of those officials.

(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 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)

<i><b>Description</b></i>	<i><b>Reference</b></i>	<i><b>To be Paid</b></i>	<i><b>Amount</b></i>
Conditional approval of preliminary plat	152.131(B)	On application	\$250 + \$5 per lot included in plat

**152.999 PENALTY.**

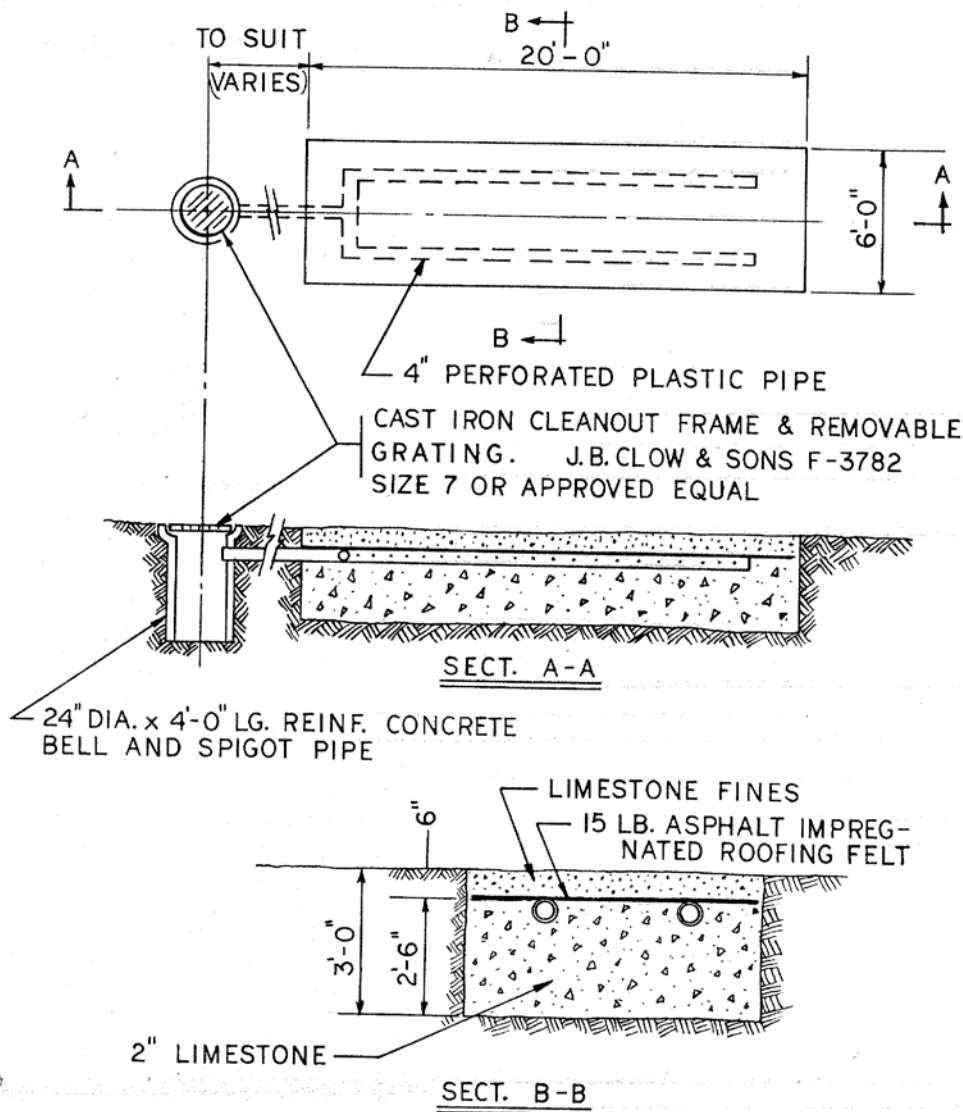
(A) All violations of Chapter 152, shall be subject to a fine not to exceed \$2,500 for the first violation and not to exceed \$7,500 for the second and subsequent violations. Each day the violation shall continue to exist, or each distinct repetition of any violation shall constitute a separate offense. .

)

**APPENDIX A: FIGURE A CATCH BASIN AND DRAINAGE FIELD**

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

**FIGURE A**  
**CATCH BASIN & DRAINAGE FIELD**



## APPENDIX B: PROPOSED SPECIFICATIONS FOR SOIL ANALYSIS

1. At least one (1) hole a minimum of one and one-half (1½) 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>	<i>Filing</i>
<b>Step 1</b> Sketch Plan	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	
<b>Step 2</b> Preliminary Plat (Major 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	
<b>Step 3</b> Final Plat (Major Subdivision) Submits plans and specifications for improvements to Town Council; installs them, or posts bond. If installed, pays inspection fee.	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	Records final plat
<b>Alternate Step 4</b> Final Plat (Minor* Subdivisions) Submits plans and specifications for improvements to Town Council; installs them or posts bond. If installed, pays inspection fee.	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	Records Final Plat

\* 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.



## **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 “major” or “minor,” 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 “minor” subdivision, then Steps 2 and 3 are omitted. If “major,” 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. Commissioner.)

**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? \_\_\_\_\_

## 128 Ogden Dunes - Land Usage

Page 2 - Form No. S.1a

- e\_\_\_ Does it fit in with the master plan and carry out its objectives? \_\_\_\_\_
- f\_\_\_ Will it be in accord with building\_\_\_\_\_, health\_\_\_\_\_, codes or other 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 "land 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\_\_\_\_\_,  
Other:

Page 3 - Form No. S.1a

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.

**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. Commissioner.)

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 "None," if "Yes" 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 \_\_\_\_\_

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**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.

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## 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)**

*Item*

*Number*

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

\_\_\_\_\_

**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 "Public"

- 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 "Reserved" or "Not 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 \$\_\_\_\_ (1½% 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.

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## 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. Commissioner.)

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 "None", if "Yes" 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):

*Item*

*Number*

- 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 'No' 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:

**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 "Public"
- 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 "Reserved" or "Not 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 \$ \_\_\_\_\_ (1½% 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
- 5\_\_ Duplicate copy given to applicant Date:\_\_\_\_\_

Page 4 - Form S.4a

#### VI. 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)

**SECTION 2:** 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

\_\_\_\_\_  
Nate Ball

\_\_\_\_\_  
Kathryn Kniola

\_\_\_\_\_  
Scott Lehmann

\_\_\_\_\_  
Michael Webber

ATTEST:

\_\_\_\_\_  
Jean Manna, Clerk Treasurer