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Indiana Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street
Indianapolis, IN 46204

Re: Town of Ogden Dunes
Building Code Revision

Dear Commissioners:

At your June 2, 2015 meeting, you reviewed the Town of Ogden Dunes Ordinance 805, which revised the entire Building Code for the Town of Ogden Dunes. Since Ordinance 805 made numerous changes, large and small, to the Building Code, the Town determined to re-adopt the entire Building Code, rather than just those portions of the Building Code that were actually adopted. The comments that were made by the Chairman and others have been carefully considered. Attached for your consideration is a copy of Ordinance 812, which repeals Ordinance 805 and re-adopts the Building Code. Specifically, I would like to draw your attention to the following changes in the revised Building Code:

1. The revision eliminates those specific references to code citations that have been adopted by reference.
2. The revision makes changes to comport with language from the building ordinance template provided by the Commission.
3. There were questions as to why the Building Code contained regulations concerning land disturbing construction activities. The Ordinance removes those sections from the Building Code and inserting them in Title IX of the Town Code, which is the Town's Zoning and Subdivision Control Ordinance.
4. The Commission questioned whether certain regulations were compliant with HEA 1301. Those portions of the Building Code related to contractor registration were properly adopted prior to HEA 1301 and have been retained in the revision. However, the revision

clarifies the applicability of the building permit process and excludes certain projects, including projects requiring design release, from the building permit process.

5. The revision adopts the definitions contained in the building ordinance template provided by the Commission. Additionally, you will note that the Building Code retains the adoption of the definitions set forth in Chapter 152 of Town Code (the Town's Zoning Code). The Town believes that it is important to have uniformity in the definitions used throughout the Building and Zoning Codes.

6. At least one commissioner questioned why the Town required plans for Class Two structures to be stamped by an architect or an engineer. The revision leaves this requirement intact. The Town of Ogden Dunes is situated on the Lake Michigan shoreline. A substantial portion of the Town consists of sand dunes. The Council feels that because of the challenging nature of building upon sand dunes that it is imperative that a professional architect or engineer be involved in the design process.

I believe it is also important to point out to the Commission that, with the exception of one site in Town currently utilized as a gas station, the remainder of the community is zoned and utilized for residential purposes. Thus, it would be extremely atypical for the Town to receive building permit applications for any type of commercial use.

I would request that you place this ordinance on your January meeting agenda. In the meantime, should you have any questions or concerns, please do not hesitate to contact me. Should you feel it would be helpful for myself or a Town representative to be present at the meeting which you consider this ordinance, please let me know and I would be happy to arrange that.

Very truly yours,

HARRIS WELSH & LUKMANN


Julie A. Paulson
jpaulson@hwllaw.com

ORDINANCE NO. 812

**AN ORDINANCE OF THE OGDEN DUNES TOWN COUNCIL
AMENDING CHAPTER 151 OF THE OGDEN DUNES TOWN CODE**

NOW, THEREFORE BE IT AND IT IS HEREBY ORDAINED AS FOLLOWS:

SECTION ONE: That Ordinance 805 shall be repealed.

SECTION TWO: That Chapter 151 of the Ogden Dunes Town Code shall be amended and hereafter read as follows:

CHAPTER 151: BUILDING CODE AND UNSAFE BUILDINGS

Section

Article I. General Provisions

- 151.001 Authority
- 151.002 Responsibility
- 151.003 Building Code
- 151.004 Purpose
- 151.005 Authority
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- 151.007 Adoption of Rules by Reference
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- 151.009 Inspections by Fire Chief
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- 151.012 Violations
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- 151.016 Permit Filing and Application Requirements
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- 151.020 Worksite Authority: Time Limits
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Construction Standards and Requirements

- 151.024 Residence Space
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- 151.108 Fund Established
- 151.109 Violations, Penalties – Unsafe Buildings

Article V. Violations

- 151.999 Violations

ARTICLE I. GENERAL PROVISIONS

151.001 AUTHORITY.

- (A) This chapter is the Building Code of the town codified into one document and enacted under the authority provided for by state law as indicated below.
(⁹⁹ Code, § 10-16)

- (B) The Building Code provisions enacted in this chapter are enacted under the authority granted to the town consistent with I.C. 22-15-4 and/or I.C. 22-13, and the building code provisions required to be submitted to the State Fire Safety and Building Code Commission will be submitted as required by law. (⁹⁹ Code, § 10-18)

- (C) Each and every provision of this chapter of the Building Code are intended to be enacted in the manner required by law to provide all of the presumptions available to municipal ordinance enactments under the laws of the State of Indiana.
(⁹⁹ Code, § 10-20) (Ord. 643, passed 3-2-98)

- (D) See § 151.007 for Building Regulation Adoption of Regulations by reference

151.002 RESPONSIBILITY.

- (A) *Plan Commission; delegation of duties.*
 - (1) With the exception of the Unsafe Building Code, in which the enforcement authority is specifically designated to be the Ogden Dunes Building Commissioner and the hearing authority is the Ogden Dunes Advisory Plan Commission (hereinafter "Plan Commission"), the responsibility for administering and enforcing all provisions of this chapter is conferred upon the Plan Commission of the Town. Whenever in this Code it is provided that anything must be done to the approval of or subject to the direction of the Plan Commission, this shall be construed to give such Officer only the discretion of determining whether this Code has been complied with and no such provision shall be construed as giving any officer discretionary powers as to what this Code shall be, or power to require conditions not prescribed by ordinances or to enforce this Code in an arbitrary or discriminatory manner. The Plan Commission may also, and shall in accordance with state statutes, delegate to the Building

Commissioner such duties as issuing permits, conducting field inspections and reporting violations.

- (2) The Plan 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) *Reserved*

(C) *Building Commissioner.* The Building Commissioner shall be appointed by the Town Council pursuant to § 30.03(B)(6).

- (1) On behalf and at the direction of the Commission, subject to compliance with state statutes, the Building Commissioner shall enforce all provisions of this chapter. For this purpose the Building Commissioner may inspect any occupied property at any reasonable hour of the day, and may enter the premises with the consent of the owner, or authorized representative thereof.
- (2) The Building Commissioner shall first advise the owner or authorized representative of any possible violations, order the violations ceased and/or corrected, and notify the Plan Commission. If deemed necessary, the Building Commissioner or the Plan Commission shall pursue enforcement according to §151.050.
- (3) The Building Commissioner shall:
 - (a) Make inspections of all construction upon which permits have been issued, upon his or her own initiative or upon request of the owner or contractor, as specified in Article III of this chapter;
 - (b) Assure compliance with all provisions of this chapter in general and of Article III in particular, relating to all construction or demolition, including permitted time limits, and follow the procedures in 151.050 below;
 - (c) Post all required notices and keep records of all applications and permits issued and denied, which records shall be available for public inspection.

(D) *Electrical and plumbing inspectors.* Electrical and plumbing inspector(s) may be appointed, upon the recommendation of, and qualifications satisfactory to, the Commission, and compensation fixed by the Town Council. The Inspector(s) shall be responsible to the Building Commissioner. ('99 Code, § 10-28) (Ord. 643, passed 3-2-98)

151.003 BUILDING CODE.

The "Building Code of the Town of Ogden Dunes, Indiana" may be cited as such and will be referred to herein as "the Code".

151.004 PURPOSE.

The purpose of this Code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare.

151.005 AUTHORITY.

The Plan Commission is hereby authorized and directed to administer and enforce all of the provisions of this Code. Whenever in this Code it is provided that anything must be done to the approval of or subject to the direction of the Plan Commission, this shall be construed to give such Officer only the discretion of determining whether this Code has been complied with and no such provision shall be construed as giving any Officer discretionary powers as to what this Code shall be, or power to require conditions not prescribed by ordinances or to enforce this Code in an arbitrary or discriminatory manner.

151.006 SCOPE.

The provisions of this Code apply to the construction, alterations, repair, use, occupancy, maintenance and additions to all buildings and structures, other than commercial buildings.

151.007 ADOPTION OF RULES BY REFERENCE.

The following building rules, codes and standards are hereby adopted by reference.

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

1. *Article 12- - General Administrative Rules*
2. *Article 13 -- Building Codes*
3. *Article 14 -- Indiana Residential Code*

4. *Article 15 -- Industrialized Building Systems*
5. *Article 16 -- Plumbing Code*
6. *Article 17 -- Electrical Code*
7. *Article 18 -- Mechanical Code*
8. *Article 19 -- Energy Conservation Code*
9. *Article 20-- Swimming Pool Code*
10. *Article 21- Safety Code for Elevators, Escalators, Manlifts and Hoists*
11. *Article 22 -- Fire Code*
12. *Article 23- Recreational Facilities*
13. *Article 24- Supplementary Fire Safety Rules*
14. *Article 25 Fuel Gas Code*

- B. Two (2) copies of the above rules incorporated by reference are on file in the office of the Clerk-Treasurer for public inspection as required by I.C. 36-1-5-4.

151.008 INSPECTIONS - BY BUILDING COMMISSIONER, BUILDING INSPECTOR; REQUIREMENT OF AS-BUILT SITE PLAN DRAWING PRIOR TO OCCUPANCY

After the issuance of any building permit, the Building Commissioner and/or Building Inspector shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the provisions of this Code and the terms of the permit. Re-inspections of work found to be incomplete or not ready for inspection are subject to assessment of re-inspection fees as prescribed in this Code. Prior to the Pre-pour Foundation Walls inspection, a written document signed and sealed by a registered Indiana Land Surveyor must be submitted certifying the top of the footing.

1. The Building Commission shall appoint an Electrical Inspector who shall be qualified and responsible to conduct electrical inspections of building projects. The Electrical Inspector shall make inspections periodically as it shall deem appropriate (including a final inspection upon completion of all work) to ensure compliance with the building permit issued, the various provisions of the code, as well as any other applicable local, state or federal statutes, codes, rules, regulations or laws. Notwithstanding the foregoing, the Electrical Inspector shall conduct not less than one final inspection for any and all construction projects.

2. The Building Inspector, Electrical Inspector and all other inspectors shall keep all necessary records of inspections and in the event an Inspector believes there to be non-compliance with the permit, the codes or any other applicable rules, regulations or laws, it shall report the same immediately to the Building Commission.

3. There shall be a minimum of three inspections of all new construction in which the following shall be specifically covered:

- (a) Footing locations;
- (b) Framing, plumbing and electric; and
- (c) Final inspection.

4. The number of required inspections may be increased or decreased at the discretion of the Building Commission based on the complexity of the project.

5. It is the responsibility of the permit holder to provide the Building Commissioner with advance notice of the request for an inspection.

151.009 INSPECTIONS - BY FIRE CHIEF

The Chief of the Fire Department, or his designated representative, shall assist the Building Commissioner and/or Building Inspector in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commission.

151.010 RIGHT OF ENTRY

The Building Commissioner or other representative designated by the Building Commissioner, may enter any building, structure or premises in the Town at reasonable times to perform any duty imposed upon said official by this Code.

151.011 WORK STANDARDS

All work on the construction, alteration, repair and/or removal of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.

151.012 VIOLATIONS

It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, convert, demolish, equip, use, occupy or maintain any building or structure, in the Town, or cause or permit the same to be done, contrary to or in violation of the provisions of this Code.

151.013 REMEDIES.

The Building Commission, Building Commissioner, Building Inspector, or Town Engineer may in the name of the Town bring actions in a court of competent jurisdiction for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this Code.

151.014 DEFINITIONS.

For the purpose of this Chapter, the definitions contained in Section 152.002 shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular. The word shall is always mandatory and not directory. In addition, the following definitions shall apply throughout this Chapter:

1. "Building Commissioner" includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.
2. "Class I structure" has the meaning ascribed thereto in I.C. 22-12-1-4.
3. "Class 2 structure" has the meaning ascribed thereto in I.C. 22-12-1-4.
4. "Construction" has the meaning ascribed thereto in I.C. 22-12-1-7.
5. "Industrialized building system" has the meaning ascribed thereto in I.C. 22-12-1-14.
6. "Manufactured home" has the meaning ascribed thereto in I.C. 22-12-1-16.
7. "Mobile structure" has the meaning ascribed thereto in I.C. 22-12-1-17.
8. "Person" has the meaning ascribed thereto in I.C. 22-12-1-18.
9. "Structure" means both Class 1 and Class 2 structures, unless specifically stated otherwise.
10. "Vehicular bridge" has the meaning ascribed thereto in I.C. 22-12-1-26.

ARTICLE II. PERMITS, REGISTRATION, CONSTRUCTION STANDARDS

151.015A APPLICATION.

Pursuant to IC 22-13-2-6, this Article shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this Article and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under IC 22-15-4. Pursuant to IC 22-13-2-9, this Article is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.

151.015B PERMITS REQUIRED.

The following activities require a permit (see list of permits and fees in 151.019):

(^c99 Code, 10-148)

- Any governmental subdivision of the town of Ogden Dunes self-performing construction must apply for the proper permit.
- See Section 151.018 for Contractor/Tradesperson Registration and Suspension/Revocation for contractor procedures

(A) Building permit.

(1) A building permit is required before:

- (a) Beginning excavation, construction, alteration, remodeling or repair of any building, appurtenance or structure;
- (b) Beginning construction of any freestanding structure, fences or retaining walls;
- (c) When the dollar value of division (a) and (b) above exceeds \$2,500. (Exception: all electrical and plumbing work needs a permit, subject to divisions (B) and (C) below)

(2) No building permit is required for work such as redecorating, which merely maintains the current status of the property. (^c99 Code, 10-149)

(B) *Electrical permit.*

- (1) An electrical permit is required for all major electrical work and providing for the inspection of the same by the Building Commissioner or Electrical Inspector.
- (2) A permit is not required for minor repairs, such as:
 - (a) Replacing switches;
 - (b) Re-fusing cutouts;
 - (c) Changing lamps, sockets, and receptacle;
 - (d) Repairing drop cords.
- (3) All new electrical work and major repairs requiring a permit must be inspected.
- (4) At the homeowner's request, an electrical inspection of electrical systems and devices may be scheduled by the Building Commissioner or Electrical Inspector for a base inspection (see 151.019). ('99 Code, 10-150)

(C) *Plumbing permit.*

- (1) A plumbing permit is required for all major plumbing work and for providing for the inspection of the same by the Building Commissioner or Plumbing Inspector.
- (2) A permit is not required for:
 - (a) Hot water tank replacement installed by a licensed plumber;
 - (b) Cleaning, clearing and rodding drains;
 - (c) Replacing or repairing faucets;
 - (d) Replacing sinks, traps and toilets.
- (3) All new plumbing work and major repairs requiring a permit must be inspected.

- (4) At the home owner's request, a plumbing inspection of plumbing systems and device may be scheduled by the Building Commissioner or Plumbing Inspector for a base inspection fee (see 151.019). ('99 Code, § 10-151)

(D) Mechanical Permit (HVAC)

- (1) A mechanical permit is required for the erection, installation, enlargement, alteration, repair, removal, conversion or replacement of all or part of a HVAC system, which is defined as heating, ventilating, and air conditioning, and for the inspection of the same by the Building Commissioner or Mechanical Inspector.
- (2) A permit is not required for :
- a) Portable gas heating appliances.
 - b) Replacement of any minor part that does not alter approval of equipment or make the equipment unsafe.
 - c) Portable heating appliances.
 - d) Portable cooling appliances.
 - e) Portable evaporative coolers.
 - f) Steam, hot or chilled water piping within any heating or cooling equipment.
 - g) Replacement of any part that does not alter its approval or make it unsafe.
 - h) Self-contained portable refrigeration unit that is not more than 1.5 horsepower

(E) *Water supply and sewage disposal permits.* A water supply permit is required through the Ogden Dunes Waterworks and a sewage disposal permit is required from the Porter County Health Department. A sewage disposal inspection is required before a certificate of occupancy permit can be issued (§151.019). ('99 Code, 10-152)

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

- (1) The area to be covered;
- (2) Adjacent property lines;
- (3) Existing buildings;

- (4) Elevations of the area;
- (5) The type and location of the drainage system;
- (6) The materials to be used; and
- (7) The method of construction.

(^99 Code, 10-153)

(G) *Other permits.* For land disturbing activity permit, see 152.176(C)(1); for tree removal permit, see 152.175(C)(2); and for demolition permit, see 151.031(A).

(^99 Code, 10-154) (Ord. 643, passed 3-2-98; Am. Ord. 725, passed 5-5-08) Penalty, see 151.999).

151.016 PERMIT FILING AND APPLICATION REQUIREMENTS.

(A) *Filing.* Applications for all permits (except as noted herein) shall be addressed to and filed with the Building Commissioner on forms provided by that office.

(^99 Code, 10-155)

(B) *Permit application requirements.*

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

- (a) Three copies of the complete plan specifications of the proposed activities in hard copy and an electronic copy in a PDF format.
- (b) Three copies of a current plat of survey of the lot on which the building, structure or appurtenance will be constructed. Plat of survey must show location of stakes at each corner of the lot and include elevations at each stake as related to the surveyor's identifiable bench mark. In addition, surveyor shall record the elevations on the lot lines extended 15 feet beyond the stakes. Also, include the elevation at grade of the closest portion of any existing adjacent structure.

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

- (a) A plot plan showing the exact dimensioned location of the building, structure or appurtenance in all its parts, including eaves, porches, chimneys and any other overhangs or protuberances, to all property lines, to all setback lines, and to all existing buildings and the like on the property, as well as any streets or

easements bordering the property accurately drawn to scale, any proposed changes in contours, roadways, fences, retaining walls, walls, wells, surface drains, septic tanks or other installations which may affect the appearance or the use of easements, roadways or adjacent property;

- (b) Foundation and basement plans and details;
 - (c) A floor plan for each level, accurately drawn to scale and with all important dimensions clearly given;
 - (d) Elevations of all exterior walls;
 - (e) Sections and details of walls, floors, and roof, showing dimensions, materials and "R values" of insulation;
 - (f) Electrical plans, diagrams, details of service entrance and power and lighting information;
 - (g) Plumbing plans showing location of fixtures, risers, drains and piping isometrics; and
 - (h) Construction specifications (may be on plans).
- (3) The specifications shall clearly describe the materials intended to be used and the nature and character of the proposed construction.
- (4) Specifications which use general expressions such as in accordance with the Building Code or to the satisfaction of the Building Commissioner do not meet the requirements of this chapter. ('99 Code, 10-156).
- (C) *Signature.* The application for a permit shall be signed by the owner of the proposed construction.
('99 Code, 10-157)
- (D) *Application review period.*
- (1) A review period of 30 days from the date received by the Building Commissioner is required for each application prior to approval.

- (2) During review by the Plan Commission and in each case, an open list of pending applications shall be maintained for public inspection and review.
('99 Code, § 10-158) (Ord. 643, passed 3-2-98
- (3) The Plan Commission and or the Building Commissioner as part of the review process may seek professional help if they deem it necessary.

151.017 PLANS AND SPECIFICATIONS.

- (A) *Filing requirements.* Three copies of a site plan shall be submitted to the Building Commissioner, along with an application for building permit, all applicable building permit fees and an application for a certificate of occupancy (see 151.023). The site plan and all drawings required hereunder shall be in a scale not less than one-fourth inch equaling one foot. Site plans shall include and be accompanied by, at a minimum, site grading, slope destabilization, erosion control with all appropriate details for the preceding, elevations, a typical wall section, and floor plans with building specifications. It is to be noted that any slope stabilization system shall have a minimum design life of 40 years.
- (B) *Design and structural approval.* The Building Commissioner shall submit documents that meet the requirements of this chapter to the Plan Commission for approval before a building permit may be granted (see 151.002).
- (C) *Certification.* Except as detailed in Paragraph 1 below, site plans and specifications pursuant to this section shall be certified by an architect or professional engineer licensed in the state of Indiana. All building sites with proposed pre-development or post-development grade at or exceeding 20 degrees shall require a site plan design certified and stamped by a professional engineer licensed in the state of Indiana. Any site plan that includes a proposed retaining wall, regardless of its height must also be certified and stamped by a professional engineer licensed in the State of Indiana.
 - 1. All retaining walls shall be designed and constructed in accordance with the manufacturer's recommendations and guidelines. When specific manufacturer's guidelines are not available, generally accepted design and construction standards shall be followed. All retaining wall designs shall include site plans and specifications. Retaining wall not exceeding four feet (4') in height, as measured from the bottom of the footing to the top of the wall, shall not require design certification by an architect or professional engineer licensed in the State of Indiana.

- (D) *Examination.* Within 30 calendar days, or as soon thereafter as is practical, following the filing of required plans, specifications, applications and fees with the Building Commissioner. The Building Commissioner or the Plan Commission shall examine the plans and specifications and determine their eligibility for permit. (see 151.016 and 151.002).
(’99 Code, 10-140 - 10-143) (Ord. 643, passed 3-2-98; Am. Ord. 707, passed 9-11-06)

151.018 CONTRACTOR/TRADEPERSON REGISTRATION AND SUSPENSION/REVOCAION

- (A) *Registration.* Any building contractor, general contractor, subcontractor or tradesperson doing business which requires a Permit per Section 151.015 of the Town Code, within the Town of Ogden Dunes must be registered with the Town of Ogden Dunes, and provide a certificate of insurance naming The Town of Ogden Dunes as an “Additional Insured” and bonding in Porter County, Indiana and provide proof of insurance and bonding in Porter County, Indiana, as specified in paragraph (C) below, at the time of such registration.

If a state license is required in the discipline, trade, or field of work, it is to be submitted when seeking registration.

Additionally, Plumbing, Mechanical, and Electrical Contractors must provide proof of being licensed in an Indiana Municipality or county that tests these disciplines prior to issuances of a license.

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

- (B) *Initial Registration and Registration Renewal.* Each building contractor, general contractor, subcontractor, or tradesperson referred to in Section (A) above, shall submit an application for Initial Registration or Registration Renewal on a form provided by the Clerk-Treasurer, accompanied by an application fee in the amount specified in 151.019, and the required proof of insurance and bonding as specified in 151.018 (A) and (C). The registration shall expire annually on December 31.

- (1) Registrations shall be renewed with the Town of Ogden Dunes, annually, not later than January 30 Fees for Registration Renewals shall be in the amount specified in 151.019.

(2) Between January 30 and the last day of February, registrations may be renewed by submitting a Registration Renewal application, accompanied by a late renewal fee in the amount specified in 151.019.

(3) Registrations not renewed with the Town of Ogden Dunes by the last day of February shall be considered as Initial Registrations.

(C) Insurance and Bond. Building contractors, general contractors, subcontractors and tradespersons referred to in Section (A) above shall furnish proof of Insurance to the Town of Ogden Dunes, showing compliance with Indiana Workers Compensation and Occupational Disease laws prior to being granted registration with the Town Coverage must include at a minimum:

(1) Certificate of liability insurance showing minimum coverage limits of \$500,000 per occurrence with a yearly aggregate coverage of \$1,000,000.

(2) Unified License Bond in an amount equal to \$5000. This bond must be recorded and filed with the Porter County Recorder.

(3) Proof of Worker's Compensation Insurance coverage for all employees, with coverage in an amount no less than that required by Indiana law.

(D) Homeowner Registration. Homeowners are not required to be registered to perform work on their property.

Homeowners who hire contractors, subcontractors and tradespersons to do electrical, plumbing, heating, ventilation and air conditioning are responsible to ensure that these contractors, subcontractors and/or tradespersons are registered in accordance with this Section 151.018.

Homeowners who hire unregistered contractors and tradespersons to perform work not requiring a building permit do so at their own risk. The Town of Ogden Dunes cannot protect homeowners against fraud, poor workmanship, or damage to their property, neighboring property, or Town property.

(E) Any governmental subdivision of the town of Ogden Dunes self-performing construction must apply for the proper building permit, but is not required to be registered.

(F) Suspension/ Revocation of Contractor Registration

- (1) Acts or omissions that may warrant suspension or revocation - The power of the Plan Commission is authorized to temporarily suspend or permanently revoke the registration of any contractor or subcontractor registered under this article, who shall be found to have committed any one or more of the following acts or omissions:
- (a) Deliberate misrepresentation of any material fact, fraud, or deceit in obtaining a registration.
 - (b) Aiding, abetting, or knowingly combining or conspiring with an unregistered person with the intent to evade the provisions of this article.
 - (c) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the registered contractor or subcontractor.
 - (d) Diversion of funds or property received for a specified purpose, and for the purpose and prosecution or completion of any construction project or operation, and the application or use of such funds for any other project or operation, obligation or purpose:
 - (1) With the intent to defraud or deceive creditors or the owners; or,
 - (2) Resulting in the loss of said funds or property received.
 - (e) Willful and deliberate violations of the building laws of the state and the town, or the political subdivisions thereof.
 - (f) Willful departure from or disregard of plans or specifications in any material respect, without the consent of the person entitled to have the particular construction or operation completed.
 - (g) Failure in any substantial respect to comply with the provisions of this article.
 - (h) Disregarding a stop-work order which has been issued for violation of ordinances or the building codes or laws; provided, when a contract has been executed or commenced, upon the Building Commissioner's directive the contractor may proceed to complete such contract on the condition that he will make the necessary adjustments and repairs.

(i) Receiving three or more citations for using or hiring unregistered contractors or subcontractors.

(1) If suspension or revocation results from a violation of this subpart, reinstatement may only occur after the passage of one year from the date of suspension or revocation.

(2) Prior to reinstatement of registration, the contractor or subcontractor must obtain Plan Commission approval for reinstatement by appearing before the Commission for interview.

(2) Suspension/Revocation Procedures

(a) The Plan Commission may, upon a complaint filed by a member of the building department, or upon the filing of a verified complaint in writing by a contractee, prefer charges against any registered contractor under the terms of this division. The Plan Commission shall forth with issue a notice directing the registered contractor within 20 days after service of notice to appear and answer to the complaint showing cause, if any, why his registration should not be suspended or revoked. The contractor may request a hearing on such charges and the Plan Commission shall, within 30 days, set a date for a hearing. The complaint shall contain a statement of facts pertaining to the specific charges of the violation of this division, other ordinances and/or state law pertaining to the building construction, or of any act which may be the cause of suspension or revocation of a registration. The contractor may be present and may be represented by counsel at such hearing.

(b) When a hearing is requested by a registered contractor on charges brought under this division, the Plan Commission shall set the time and place when such hearing shall be held.

(c) A service of notice upon the contractor shall be fully effective upon mailing a copy thereof, by United States Registered Mail, with return receipt requested, in a sealed envelope with postage fully paid thereon, addressed to the contractor at his last address of record as shown in the Building Commissioner's office. Failure of the contractor to answer may be deemed to be an admission by him of the facts stated in the complaint, and his registration thereupon may be suspended forthwith upon the complaint filed thereon and without any further evidence in this case. The Plan Commission shall have the authority, in its discretion, to

continue such cause for further hearing should the circumstances of this case warrant this action.

- (d) Whenever the Plan Commission shall determine that a registered contractor is in violation of the terms of this article, the Plan Commission shall then have the power to suspend such registration for a definite period, to revoke such registration or to issue an order against such contractor to correct the violation, fixing a reasonable time within which such correction shall be made or accomplished and, upon compliance with such order, the Plan Commission may dismiss such complaint. If the contractor shall not correct such violation within the time required by the previous order of the Plan Commission, the Plan Commission shall have the power to extend such time for correction of the violation or shall have the right to suspend such contractor's registration for a determinative period or may revoke the registration without any further right to hearing by the registrant. To revoke or suspend a registration or for the issuing of an order requiring correction of any violations, it shall require the affirmative vote of two-thirds of the membership of the Plan Commission.
- (e) After the revocation of any registration, such registration shall not be renewed, and no new registration shall be issued to the same registration holder within a period of at least one year subsequent to the date of revocation. After the expiration of the one-year period, a new registration shall only be issued upon proper showing that all violations, acts or omissions for which the registration was revoked have been corrected and that all conditions imposed by the decision of the revocation correction order or suspension have been fully complied with.
- (f) Any contractor who is aggrieved by the decision of the Plan Commission may take an appeal from such Plan Commission to the Board of Zoning Appeal of the town and, if still aggrieved, may further appeal as allowed by the laws of the state.
- (g) Whenever a new registration is issued by the Commission to any applicant whose registration has previously been revoked, the issuance shall be treated as an initial issuance.

(Ord. 643 passed 3-2-98; Am. Ord. 697, passed 3-6-06).

151.019 PERMITS, FILING FEES AND DEPOSITS.

- (A) A deposit of \$500 shall be paid at time of filing for building permit application for all new construction, additions or structure modifications.

(1) This deposit shall be deducted from the total building permit cost as a credit at the time the building permit is issued, so long as the building permit is issued within one year from the date of the submission of the building permit application.

(2) In the event the final building permit cost is less than \$500, the difference shall be refunded to the applicant within 30 days of the issuance of a final building permit.

(B) A re-inspection and consultation fee of \$75 per hour must be paid before re-inspection of any rejected construction. There is a minimum charge of \$75 per re-inspection.

(C) In addition to the fees listed below, the permit applicant shall also pay the cost of any professional assistance engaged by the Town in the review of the permit application pursuant to § 151.016(D).

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
Building permit	151.015B(A)	At time of filing of application**	\$100 + \$1.50 per sq. ft. + \$0.40 per sq. ft. for garage and other non-living spaces + \$300 debris removal refundable deposit
Remodeling and renovation permit	151.015B(A)	At time of filing of application **	\$100 + \$1.50 per sq. ft. + \$0.40 per sq. ft. for garage and other non-living spaces + \$300 debris removal

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
Electrical permit	151.015B(B)	At time of filing of application	\$50 + \$75 per inspection
Plumbing permit	151.015B(C)	At time of filing of application	\$50 + \$75 per inspection
Heating, venting and air conditioning permit	151.015B(D)	At time of filing of application	\$50 + \$75 per inspection
Repair permit	151.015B(A)	At time of filing of application	\$200 (includes two inspections)
Roof repair permit	151.015B(A)	At time of filing of application	\$125 (includes one inspection)
Water supply tap fee	151.015B(E)	At time of filing of application to Water Works	Established by Ogden Dunes Water Works
Sewage disposal permit	151.015B(E)	At time of filing of application to Porter County Health Department	Established by Porter County Health Department
Driveway or parking area permit	151.015B(F)	At time of filing of application***	\$150
Land disturbing activity permit	152.177(C)(1)	At time of filing of application***	\$400 (\$300 is refundable)
Appurtenances and/or Structures	151.015B(A)	At time of filing of application**	\$50 + \$75 per inspection

<i>Description</i>	<i>Reference</i>	<i>To be Paid</i>	<i>Amount</i>
Tree removal permit	152.176(C)(2)	At time of filing of application***	\$5 + \$1 per tree over five trees
Demolition permit	151.031(A)	At time of filing of application	\$525.00 (\$300.00 is refundable)
Swimming pool	675 IAC 20	At time of filing of application	\$500.00 (Includes four inspections)
Certificate of occupancy	151.023	At time of filing of application	Fee included with building permit
Sign Permit	151.015B(A)	At time of filing of application	\$50
Registration Fees	151.018(A)		
Initial Registration Fee	151.018(B)		\$100 (expires 12/31)
Registration Renewal Fee	151.018(B)(1)	By January 30 each year	\$25
Late Registration Renewal Fee	151.018(B)(2)	By the last day in February	\$50
** Fees do not include electrical, plumbing and heating, venting and air conditioning permits			
*** Fees waived if accompanied by building permit			

Whenever a person, whether an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity, which is either an applicant for a permit or an obtainer of a permit owes fees (including checks returned for insufficient funds, permit fees or inspection fees owed pursuant to this code), the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied. Similarly, non-conformity and/or non-compliance with any applicable provision of an applicable code or ordinance is also grounds for the Building Commissioner to withhold the issuance of requested permits until such time that conformity and/or compliance is had.

(99 Code, § 10-31) (Ord. 643, passed 3-2-98; Am. Ord. 695, passed 10-3-05; Am. Ord. 718, passed 8-13-07; Am. Ord. 725, passed 5-5-08)

151.020 WORK SITE AUTHORITY; TIME LIMITS.

(A) *Work site authority.* After approval of a building permit, two sets of the approved plans and specifications shall be returned to the applicant. One copy of the approved plans and specifications shall be kept on the work site at all times that construction is in progress and shall be available for inspection by the Building Commissioner. (99 Code, 10-159)

(B) *Time limits.*

- (1) The Building Commissioner shall, by certified mail to the applicant, cancel a permit if:
 - (a) The permit holder fails to start construction within a period of 120 days of the date the permit was issued; or
 - (b) The permit holder fails to proceed with the construction with reasonable diligence for any continuous period of six months, or;
 - (c) The permit holder fails to complete the construction within the 12 months immediately following the construction start date.
- (2) After the 12-month expiration date, the permit may be re-issued upon application, for a period not exceeding an additional six months, at double the original permit fee.
- (3) Any rejected applicant or the holder of an outstanding building permit may surrender it to the Building Commissioner any time before construction and may be refunded one-half the permit fee. (99 Code, 10-160) (Ord. 643, passed 3-2-98)

151.021 CONSTRUCTION OPERATIONS.

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

- (B) *Sand control.* It is the duty of the owner, contractor, builder or other person having control or supervision of a construction site to prevent loose sand from blowing or sifting onto public roads or adjacent property. This requirement may be assured by providing suitable ground cover, by erecting suitable fencing or by immediate cleaning.
- (C) *Construction hours.* Hours of construction are between 7:00 a.m. and 7:00 p.m. Monday through Saturday. A special permit may be granted by the Building Commissioner at his discretion, taking into consideration noise levels and traffic situations, to work at other times. This permit must be applied for at least 48 hours in advance. No activity before 9:00 a.m. on Saturday or on Sunday, if permitted, shall generate noise which may be heard outside property lines of the construction.
- (D) *Garbage and refuse disposal.* During construction, no lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in accepted container.
('99 Code, 10-165 - 10-168) (Ord. 643, passed 3-2-98) Penalty, see 151.999.

151.022 INSPECTIONS.

- (A) To assure compliance with this Building Code, inspections shall be conducted by the Building Commissioner on behalf of the Plan Commission (see 151.002).
- (B) The Building Commissioner may enter any property within the town to make an inspection for Building Code compliance and to perform duties imposed by this Building Code.
- (C) The Building Commissioner may inspect any occupied property at any reasonable hour of the day and may enter the premises with the consent of the owner or an authorized representative.
- (D) The Building Commissioner shall include three inspections of all new construction in which the following shall be specifically covered:
 - (1) Footing locations;
 - (2) Framing, plumbing and electric; and
 - (3) Final inspection.

- (E) The number of inspections may be reduced to one or two by the Building Commissioner should any of these inspections not be required because of the simplicity of the construction.
- (F) It is the responsibility of the building contractor or owner to notify the Building Commissioner in ample time to make the inspection prior to the next additional construction.
- (G) The Building Commissioner shall inform the Plan Commission of all violations of this Building Code (see 151.999). ('99 Code, 10-136) (Ord. 643, passed 3-2-98)

151.023 CERTIFICATE OF OCCUPANCY.

- (A) No part of a building or structure may be occupied until a Certificate of Occupancy has been issued by the Building Commissioner or the Plan Commission.
- (B) No certificate of occupancy shall be issued until compliance has been made with all the provisions of applicable building codes and all ordinances of the Town of Ogden Dunes.
 - (1) A Certificate of Occupancy will only be issued upon the completion of all work required to be completed pursuant to the building permit and permit process. The work required to be completed shall include, but not be limited to, all driveways, sidewalks, siding, painting, landscaping, decks, patios, etc. that are indicated on the drawings submitted and that the permit is based upon. No exceptions will be granted to the requirements set forth herein. Any work that is incomplete at the expiration of the time limitations contained in the building permit and in the Town of Ogden Dunes ordinances shall require a new application, permit and payment of applicable building permit fees.
 - (2) Evidence of final approval of the septic system by the Porter County Health Department is required for a certificate of occupancy and shall be supplied by the permit holder to the Ogden Dunes Building Commissioner prior to the issuance of a certificate of occupancy.
- (C) Interim occupancy during construction is prohibited. Garages, basements or other parts of a partially completed building or structure shall not be occupied while waiting for completion of the building structure. ('99 Code, § 10-161) (Ord. 643, passed 3-2-98; Am. Ord. 697, passed 3-6-06) Penalty, see 151.999

Construction Standards and Requirements

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

151.029 WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS.

- (A) *Connections to town water distribution system.* A building or structure containing plumbing features which is to be used for human habitation, for business purposes or for commercial uses shall be connected to the town water distribution system. ('99 Code, 10-198)
- (B) *Sewage disposal permit.* Before applying for a building permit, the owner shall obtain a permit from the Porter County Board of Health or Indiana State Board of Health to construct a private sewage disposal system. ('99 Code, 10-199)
- (C) *Residential.* A private single-family residential sewage disposal system shall be installed, constructed and maintained in an improved manner as currently required by the Indiana State Board of Health and the Porter County Board of Health. No certificate of occupancy shall be issued until the owner has filed with the Building Commissioner a satisfactory sewage disposal inspection report. ('99 Code, 10-200) (Ord. 643, passed 3-2-98) Penalty, see 151.999.

151.030 BUILDING REGULATIONS.

- (A) *Underground utilities.* All utility services for new construction begun after the effective date of this chapter shall be buried under the ground in accordance with the standard practice governing each utility. This shall include sewers, gas, water, electricity, cable television and telephone.
('99 Code, 10-210)
- (B) *Review of application.* Prior to the issuance of any building permit herein, the Building Commissioner shall have:
 - (1) Reviewed such application to determine full compliance with all provisions of this Building Code and this chapter; and
 - (2) Wherever deemed necessary, consulted with the Environmental Advisory Board.
('99 Code, § 10-212)

151.031 DEMOLITION.

(A) *Permits.* The contractor or owner shall obtain all necessary permits before starting any demolition work. The permit shall be issued for a period of 30 days. All work must be completed in 30 days unless extended for a period not to exceed 30 days by the Building Commissioner (see 151.019).

(^99 Code, 10-244)

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

(^99 Code, 10-245)

(C) *Procedure for demolition.*

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

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

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

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

(5) The hole must be filled with clean sand, brought up to grade and planted with appropriate vegetation to prevent erosion. (^99 Code, 10-246) (Ord. 643, passed 3-2-98) Penalty, see 151.999

ARTICLE III. OFFENSES

151.050 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) *Appeals.* Any administrative or enforcement decision of the Plan Commission, or the Building Commissioner may be appealed within 30 days to the Board of Zoning Appeals, upon filing of the specified form and payment of the filing fee (see 152.204 below).
(99 Code, 10-29) (Ord. 643, passed 3-2-98)

(D) *Declaration of a common nuisance and offense of nuisance.*

- (1) Any structure erected, raised, or converted, or land or premises used, in violation of this chapter or code or regulation contained within this chapter, is declared to be a common nuisance and the owner or possessor of the structure, land, or premises is liable for maintaining a common nuisance.

(2) Any person, firm, individual, partnership or corporation violating any of the provisions of this chapter or code or any town ordinance or code enforced hereby may be deemed guilty of an ordinance violation and each such person may be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter and code is committed, continued or permitted, and upon such finding of any such violation, such person shall be subject to a fine as set forth in 151.999.

(3) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

(E) *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.

(F) *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.

(G) *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 a court of competent jurisdiction 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 a court of competent jurisdiction 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 3-2-9).

ARTICLE IV. UNSAFE BUILDINGS

151.101 **SHORT TITLE.** This Article shall be known and may be cited as the "Ogden Dunes Unsafe Building Law."

151.102 **DEFINITIONS**

- A. The definitions of "substantial property interest" set forth in Indiana Code §36-7-9-2 is hereby incorporated by reference herein as if copied in full.
- B. The description of an "unsafe building" and "unsafe premises" contained in Indiana Code 36-7-9-4 is incorporated by reference herein as if copied in full and reads as follows:
1. A building or structure, or any part of a building or structure, that is:
 - a. In an impaired structural condition that makes it unsafe to a person or property;
 - b. A fire hazard;
 - c. A hazard to the public health;
 - d. A public nuisance;
 - e. Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or
 - f. Vacant and not maintained in a manner that would allow human habitation, occupancy, or use under the requirements of a statute or an ordinance; is considered an unsafe building.
 2. For purposes of this Article:

- a. An unsafe building; and
 - b. The tract of real property on which the unsafe building is located;
- are considered unsafe premises.
3. A tract of real property that does not contain a building or structure, not including land used for production agriculture, is considered an unsafe premises if the tract of real property is:
- a. a fire hazard;
 - b. a hazard to public health;
 - c. a public nuisance; or
 - d. dangerous to a person or property because of a violation of a statute or ordinance.

151.103 STATE LAW ADOPTED BY REFERENCE

Indiana Code §36-7-9 *et seq.* is hereby adopted by reference as the Town Unsafe Building Law. All proceedings within the Town for the inspection, repair, and removal of unsafe building shall be governed by such law and the provisions of this article. If the provisions of this article conflict with the provisions of Indiana Code §36-7-9 *et seq.*, the provisions of the state statute shall control. Two (2) copies of Indiana Code §36-7-9 *et seq.* are on file for public review in the office of the Clerk-Treasurer.

Any reference to Indiana Code §36-7-9 *et seq.* shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.

151.104 DECLARED PUBLIC NUISANCES; ABATEMENT REQUIRED

All buildings or portions thereof within the Town that are determined after inspection by the Building Commissioner to be unsafe as defined in this article are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal.

151.105 ENFORCEMENT

The Building Commissioner is the Enforcement Authority and shall be authorized to administer and to proceed under the provisions of the unsafe building law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter. The Plan Commission shall be the hearing authority under the provisions of

the unsafe building law for all proceedings that may be held under Indiana Code §36-7-9 *et seq.*

151.106 OFFICER'S AUTHORITY OF ENFORCEMENT

Whenever in the building regulations of the State or the Town unsafe building law, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner, or any other Officer of the Town, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving any officer discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce ordinance provisions in an arbitrary or discretionary manner.

151.107 WORK STANDARDS

All work for the reconstruction, alteration, repair, or demolition of buildings and other structures shall be performed in a good, workmanlike manner according to the accepted standards and practices in the trade. The provisions of the rules pertaining to construction, plumbing, electrical, mechanical and one family dwellings, promulgated by the Fire Prevention and Building Safety Commission, shall be considered standard and acceptable practice for all matters covered by this article or orders issued pursuant to this article by the Building Commissioner. The permit shall be issued for a period of 30 days. All work must be completed in 30 days unless extended for a period not to exceed 30 days by the Building Commissioner.

151.108 FUND ESTABLISHED

An unsafe building fund is hereby established in the operating budget of the Town in accordance with the provisions of Indiana Code §36-7-9-14.

151.109 VIOLATIONS; PENALTIES – UNSAFE BUILDINGS

No person, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this article or Indiana Code §36-7-9 *et seq.* Any violation of Article IV shall be subject to the provisions of Indiana Code §36-7-9 *et seq.* as it may be amended from time to time and/or penalties as described in §10.99 of the Ogden Dunes Town Code.

ARTICLE V. VIOLATIONS

151.999 VIOLATIONS.


All violations of Chapter 151 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 that the violation shall continue to exist, or each distinct repetition of any violation shall constitute a separate offense. This Section shall not apply to violations of Article IV of Chapter 151 (See §151.109).

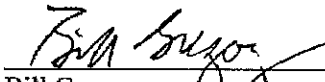
SECTION THREE: This Ordinance shall be in full force and effect from and after its adoption, approval by the State Fire Prevention and Building Safety Commission, and publication as required by law.


ALL OF WHICH IS PASSED AND ADOPTED by the Town Council of the Town of Ogden Dunes, Porter County, Indiana, this 2nd day of NOVEMBER, 2015.

OGDEN DUNES TOWN COUNCIL


Allen Johnson, President


Charlie Costanza


Bill Gregory


Paul Panther


Tom Clouser

Attest:


Jean Manna, Clerk-Treasurer

APPROVED this _____ day of _____, 201____, by the Fire Prevention
and Building Safety Commission of the State of Indiana.

Chairman
Fire Prevention and Building Safety Commission

