TOWN OF BURNS HARBOR, INDIANA

TOWN CODE

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CHAPTER 14 – SUBDIVISION CONTROL ORDINANCE

Section 1

14-1-1. **TITLE**: An ordinance for the development, through planning, of the area within the jurisdiction of the Town of Burns Harbor Plan Commission.

14-1-2. **SHORT TITLE:** This ordinance shall be known and shall be cited as the "Town of Burns Harbor Subdivision Control Ordinance".

14-1-3. **AUTHORITY:** Be it ordained by the Town Council of the Town of Burns Harbor, Indiana, under authority of IC 36-7-4, and all acts amendatory thereto, General Assembly of the State of Indiana.

14-1-4. **POLICY:** It is hereby declared to be the policy of the town to consider the subdivision of land and the subsequent development of the subdivision plat as subject to the control of the town pursuant to the official comprehensive master plan of the town for the orderly, efficient, and economical development of the town.

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements, such as schools, parks, recreation facilities, transportation facilities, and improvements.

The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Comprehensive/Land Use Plan of the Town of Burns Harbor. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, Zoning Ordinances, Comprehensive Master Plan, Official Map and Land Use Plan, and capital budget and program of the Town of Burns Harbor.

14-1-5. **PURPOSES:** These regulations are adopted for the following purposes:

A. To protect and provide for the public health, safety, and general welfare of the town.

B. To guide the future growth and development of the town in accordance with the Comprehensive Master Plan.

C. To provide for adequate light, air and privacy; to secure safety from fire, flood, and other danger, and to prevent overcrowding of land and undue congestion of population.

D. To protect the character and the social and economic stability of all parts of the town and to encourage the orderly and beneficial development of all parts of the town.

E. To protect and conserve the value of land throughout the town and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.

F. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

G. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the town, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

H. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.

I. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.

J. To encourage prevention of the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the town in order to preserve the integrity, stability, and beauty of the community and the value of the land.

K. To preserve the natural beauty and topography of the town and to insure appropriate development with regard to these natural features.

L. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the zoning ordinance of the town.

14-1-6. JURISDICTION: Hereafter no subdivision or re-subdivision of any lot, tract or parcel of land shall be affected, nor shall any street, sanitary sewer, storm sewer, water main or other facility in connection therewith be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of the regulations

herein set forth. No lot in a subdivision shall be sold, nor shall a permit to erect, alter or repair any building upon land in a subdivision be issued, nor any building erected in a subdivision unless and until a subdivision plan has been approved and recorded, and until the improvements required by the town in connection therewith have either been constructed or guaranteed, as herein provided.

14-1-7. INTERPRETATION, CONFLICT, AND SEPARABILITY: In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

A. **Public Provisions**: These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations conflict with restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

B. **Private Provisions**: These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Plan Commission or the municipality in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

14-1-8. SEPARABILITY: If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

Section 2 - DEFINITIONS

14-2-1. DEFINITION OF TERMS

(1) **ALLEY**: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

(1)(a) **ABOVEGROUND INFRASTRUCTURE:** Any improvements located at or occurring on or above the surface of the ground/earth.

(2) **APPLICANT**: The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the land.

(3) **BLOCK**: Means an area that abuts a street and lies between two adjoining streets or barriers such as a railroad right-of-way or waterway.

(4) **BOND**: Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Commission. All bonds shall be approved by the Commission wherever a bond is required by these regulations.

(5) **BUILDING**: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

(6) **BUILDING LINE**: The line of a Building on all sides, measured at the wall of the Building or use, or the footprint of the building or use, on a parcel of land or lot.

(7) **COMMISSION**: The Town of Burns Harbor Plan Commission.

(8) **COMMISSION'S SEAL**: Is the official seal of the Commission.

(9) **CONSTRUCTION PLAN**: The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in accordance with the requirements of the Commission as a condition of the approval of the plat.

(10) **CUL-DE-SAC (Court or Dead End Street)**: A short street having one end open to traffic and being permanently terminated by a vehicle turn-around.

(11) **DEVELOPER**: Any person engaged in developing or improving a lot or group of lots or structures thereon for use or occupancy.

(12) **EASEMENT**: A grant by the property owner of the use of a strip of land by the public, a corporation, or persons, for specified purposes.

(13) **FEASIBILITY STUDY**: Is a written report prepared by a Registered Engineer or Registered land Surveyor pertaining to the suitability of the site for various types of water and sewer systems; for drainage retention/detention or disbursement; and the sub-soil conditions for various methods of street construction.

(14) **FEDERAL INSURANCE ADMINISTRATION**: Is, for the purpose of this

ordinance, the administrative office of the National Flood Insurance Program.

(15) **FLOOD HAZARD AREA**: Is that portion of a flood plain which is not adequately protected from flooding by means of dikes, levees, reservoirs, or other works approved by the Department of Natural Resources.

(16) **FLOOD PLAIN**: Is the area adjoining a river or stream which has been or which may hereafter be flooded, and is so designated by the Federal Insurance Administration and/or the Department of Natural Resources.

(17) **FRONTAGE**: That side of a lot abutting on a street and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

(18) **GRADE**: The slope of a road, street, or other public way, specified in percentage (%) terms.

(19) **HEALTH DEPARTMENT AND HEALTH OFFICER**: The agency and person designated by the Council to administer the health regulations of the local government.

(20) **HIGHWAY, LIMITED ACCESS**: A freeway, or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

(21) **INDIVIDUAL SEWAGE DISPOSAL SYSTEM**: A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device.

(22) **JURISDICTION OF THE COMMISSION**: The incorporated territory of the Town of Burns Harbor, Indiana.

(23) **LOT**: A portion of a subdivision, or other parcel of land intended as a unit for transfer of ownership or development.

(24) **LOT, DOUBLE FRONTAGE**: Is a lot, other than a corner lot, which fronts on two streets.

(25) **MASTER PLAN**: The complete plan, or any of its parts, for the development of the Town prepared by the Commission and adopted in accordance with IC 36-7-4 as it is or may hereafter be in effect.

(26) **NATURAL RESOURCES, DEPARTMENT OF**: Is the Department of Natural Resources of the State of Indiana.

(27) **NON-ACCESS EASEMENT**: Is a public easement along a public right-of-way across which access to the property is not permitted.

(28) **OFFICIAL THOROUGHFARE PLAN**: The part of the Master Plan, now or hereafter adopted which includes a major street and highway plan and sets forth the location, alignment, dimensions, identification, and classification of existing

and proposed streets, highways and other thoroughfares.

(29) **OWNER**: Is any individual, firm, association, syndicate, co-partnership or corporation, having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ordinance.

(30) **PERIMETER STREET**: Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

(31) **PERSON**: Includes a corporation, firm, partnership, association, organization, or any other group that acts as a unit.

(32) **PRIMARY PLAT**: The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

(33) **PLAT**: A map or chart indicating the subdivisions or resubdivision of land, intended to be filed for record.

(33.1) **PLANNED UNIT DEVELOPMENT (PUD):** The development of an area of land as single entity for a variety of dwelling units and/or other uses, which may not correspond in use, lot size, bulk, or type of dwelling, density, lot coverage, and required open space to the regulations otherwise required by this Burns Harbor Town Code. *(Ordinance 198, 12/13/2006)*

(33.2) **PLANNED UNIT DEVELOPMENT ORDINANCE (PUD Ordinance):** A zoning ordinance that does the following:

A. Designates a parcel of real estate property as a PUD district;
B. Specifies uses or a range of uses permitted in the PUD district;
C. Specifies development requirements in the PUD district;
D. Specifies the planned documentation and supporting information that may be required;
E. Specifies any limitation applicable to a PUD district; and
F. Meets the requirements of the 1500 Series of Indiana Code 36-7-4.

(34) **PRIVATE DRIVE**: A right-of-way which has the characteristics of a street, as defined herein, except that it is not dedicated to the public use. A Driveway which is located on a lot and which serves only the use on that lot is not considered a private drive.

(35) **PRIVATE SEWER**: Is a disposal system which is not constructed, installed, maintained, operated or owned by a municipality, taxing district established for that purpose or a utility under the jurisdiction of the Public Services Commission of Indiana.

(36) **PRIVATE WATER**: Is a water supply system which is not constructed, installed, maintained, operated or owned by a municipality, taxing district established for that purpose or a utility under the jurisdiction of the Public Services Commission of Indiana.

(37) **PUBLIC IMPROVEMENT**: Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

(38) **PUBLIC SEWER**: Is a sewage disposal system which is constructed, installed, maintained, operated and owned by a municipality or taxing district established for that purpose.

(39) **PUBLIC UTILITY**: Is a firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation to the public; electricity, gas, steam, communication (including CATV), transportation, drainage, sewer or water.

(40) **PUBLIC WATER**: Is a water supply system which is constructed, installed, maintained, operated and owned by a municipality, taxing district established for that purpose or a utility under the jurisdiction of the Public Service Commission of Indiana.

(41) **REGULATORY FLOOD**: Is the 100-year flood as designated by the Federal Insurance Administration.

(42) **RIGHT-OF-WAY**: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a secondary plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

(42.5) **SETBACK:** The minimum horizontal distance between the lines of a Building measured at the wall of the Building which is closest to the property line and said property line.

- Principal Front: The setback at the front nearest the Front Lot Line
- Secondary Front: On corner Lots, the setback that is nearest the Secondary Front Lot Line.
- Side: The setback at the side nearest the Side Lot Line.
- Rear: The setback at the rear nearest the Rear Lot Line.

(43) **SETBACK LINE**: The line on a lot designating the space wherein a building, accessory building, or accessory use may be placed on a lot and beyond which no building, accessory building, or accessory structure may be built, except as allowed by specific ordinance.

(44) **SEWAGE DISPOSAL REPORT**: Is a study report on the suitability of the soil for on lot septic system, based on a mechanical analysis or soil classification or

other methods as determined acceptable by the Commission.

(45) **SKETCH PLAT**: A sketch preparatory to the preparation of the primary plat to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and objectives of these regulations prior to filing a primary plat.

(46) **STANDARDS**: Is a specific and detailed listing of materials and construction methods for subdivision improvements and standards of construction and design, as adopted by the Council (IC 36-7-4-702).

(47) **STREET (Road)**: A right-of-way, other than an alley, dedicated or otherwise legally established to the 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.

(48) **STREETS, MAJOR**:

a. ARTERIAL: Is any roadway that provides for through traffic movements between areas within the county and through the county.

b. COLLECTOR: Is a street which carries traffic from local streets to arterial streets, and may include the principal entrance street of residential developments.

(49) **STREETS, MINOR**:

a. LOCAL COLLECTOR: Is any roadway which provides access between the major street system and the minor streets defined below.

b. LOCAL: Is any roadway, the primary function of which is to provide direct access to residential, commercial, industrial, or other abutting real estate.

c. CUL-DE-SAC: Is a dead-end street permanently terminated by a vehicle turn around.

d. LOOP STREET: Is any street which has its origin and termination point with the same street and forms a loop or "U" of various shapes or proportions.

e. SERVICE ROAD: Is a minor road which is parallel and adjacent to a thoroughfare, and which provides access to abutting properties and protection from through traffic.

(50) **SUBCONTRACTOR**: Is a person, firm, or corporation hired by the subdivider.

(51) **SUBDIVIDER**: Any person engaged in developing or improving a tract of land which complies with the definition of a subdivision as defined in this ordinance.

(52) **SUBDIVISION**: The division of any parcel of land shown as a unit, as part of a unit, or as contiguous units on the last preceding transfer of ownership thereof, into two or more parcels, sites, or lots, any one of which is less than two (2) acres in area, for the purpose, whether immediate or future, of transfer of ownership, ***or the improvement of one or more parcels of land for residential, commercial***

or industrial structures or groups of structures involving the subdivision of land and allocation of land as streets or other open spaces for common use by owners, occupants or leaseholders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public utilities and facilities; provided, however, that the division or partition of land into parcels of more than two (2) acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange ***of parcels between adjoining lot owners, where such sale or exchange*** does not create additional building sites shall not be considered a subdivision. ***A "minor subdivision" is a subdivision of land that does not involve the opening of a new public way, is less than five (5) acres in total size, and contains less than five (5) lots.***

(53) **UNDERGROUND INFRASTRUCTURE:** Any subterranean improvements, including but not limited to Sanitary and Storm improvements located below the surface of the ground/earth.

(54) **ZONING ORDINANCE**: The part of the Master Plan, now or hereafter adopted, which includes an ordinance and zone maps which divide the jurisdiction of the Commission into districts, with regulations and requirements and procedures for the establishment of the land use controls.

14-2-2. USAGE

A. For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.

B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations".

C. A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "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".

Section 3 - SUBDIVISION CONTROL

14-3-1. ESTABLISHMENT OF CONTROL: No plat or re-plat of a subdivision of land located within the jurisdiction of the Commission shall be recorded until it shall have been approved by the Commission, and such approval shall have been entered in writing on the plat by the officials so designated by this Ordinance (IC 36-7-4710(d)).

14-3-2. GENERAL PROCEDURE: Whenever any subdivision of land lying within the jurisdiction of the Commission is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure:

1. Application (IC 36-7-4-703) (See Appendix "A"):
2. Staff Review (IC 36-7-4-705)
3. Plan Commission: Primary Approval (IC 36-7-4-707(a))
4. Plan Commission: Secondary Approval (IC 36-7-4-710(a))
5. Staff Action: Underground Infrastructure Acceptance
6. Staff Action: Aboveground Infrastructure Acceptance

A subdivider shall submit a written application to the Commission. Such application shall be accompanied by the information, requirements, and plans set forth in Section 3 of this Ordinance.

14-3-2.5. MANDATORY MEETING: Site Plan Review. A person desiring approval of a plat of a subdivision shall appear before the Commission to discuss the proposal prior to filing an application for primary plat approval. No fee or formal application is required for this meeting. The purpose of the meeting is to save the sub-divider time and money, and the sub-divider should be prepared to discuss the details of the proposed subdivision and/or commercial development including such items as proposed use, existing features of the area, exiting covenants, land characteristics, availability of community facilities and utilities, size of development, park areas, or public areas, proposed protective covenants, proposed utilities and street improvements. The sub-divider shall submit completed Site Plans for the proposed subdivision. In order to have the matter placed on the Commission's agenda, a person requesting Site Plan Review should contact the Commission's Secretary no later than ten (10) days prior to the next regularly scheduled meeting of the Plan Commission. (Ordinance 288-2019).

14-3-3. APPLICATION FOR PRIMARY APPROVAL *(Step 1)*: The subdivider, desiring to subdivide a parcel of land, shall apply for approval of a plat at the Office of the Town of Burns Harbor Plan Commission, *on a Petition Application prescribed by the Commission*.

A. The written application shall be accompanied by a certified check or money order in the amount set by the Commission and published in *Section 5-15 of the Subdivision Control Ordinance.*

B. At the time of application electronic copies (both a CAD file and PDF) and a minimum of three (3) copies or as directed, of the location map, primary plat, and associated reports shall be filed (see Section 14-3-7).

C. At the time of application electronic copies (both a CAD file and PDF) and three (3) printed copies, or as directed of the legal description of the property shall be filed.

D. At the time of application electronic copies (both a CAD file and PDF) three (3) printed copies, or as directed of the petition to the Plan Commission requesting primary approval of the plat shall be filed.

14-3-4. STAFF REVIEW *(Step 2)*: Following the submission of an application for the primary approval of a plat, the application shall be reviewed by the staff of the Commission in accordance with IC 36-7-4-705.

A. Within thirty (30) days after receipt of an application the staff shall review said request for technical conformity with the requirements as set forth in the Ordinance.

B. Within thirty (30) days after receipt *of an application*, *the Commission shall review the application and give it tentative approval or shall disapprove of the application and provide its reasons for disapproval. If the Commission gives tentative approval, it shall set the Application for a public hearing and take the following actions:*

1. *Give notice in writing to the applicant of the hearing date.*

2. Give notice of the hearing by publication in a newspaper of general circulation in accordance with IC 5-3-10.

3. Provide that due notice is given to interested parties at least ten (10) days before the date set for the hearing. The manner *by which publication and due notice to interested parties is given is set forth in Title V Rules of Practice and Procedure of the Town of Burns Harbor Plan Commission*.

14-3-5. PLAN COMMISSION: PRIMARY APPROVAL *(Step 3)*: The Commission shall review the request for primary approval of a subdivision plat at a public hearing during its regularly scheduled or specially called meeting.

A. **PRIMARY APPROVAL:** The Commission may grant primary approval to a subdivision in accordance with IC 36-7-4-707(a). If it grants primary approval, the Commission shall take the following actions:

1. Make written findings and a decision granting primary approval to the plat;

2. The decision shall be signed by the official designated in this Ordinance;

3. At the public hearing, the Commission shall, <u>if necessary</u>, require that a bond be posted by the applicant, which shall:

   a. Run to the Town;

   b. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with this Ordinance;

   c. Be with surety satisfactory to the Commission; and,

   d. Specify the time for the completion of the improvements and installations.

B. **PRIMARY DISAPPROVAL**: If the Commission disapproves a primary plat, it shall prepare written findings that set forth its reasons and a decision denying primary approval and provide the applicant with a copy. The decision shall be signed by the official designated in this Ordinance.

C. **IMPROVEMENTS AND INSTALLATIONS:** No person proposing a subdivision shall proceed with any grading or improvements for streets or the installation of public utilities until the primary plat of the proposed subdivision has been approved by the Plan Commission. *(Ordinance 201, 4/11/2007)*

D. **LENGTH OF PRIMARY APPROVAL:** Upon the Plan Commission granting Primary Approval of a subdivision in accordance with this Ordinance, construction of the plat may begin.

   Once granted, Primary Approval shall be valid for a period of two (2) years from the date the approval is granted. Primary Approval will expire and become null and void after two (2) years unless subdivider has taken the following steps:

   (1) Received Secondary Approval in accordance with Section 14-3-6 et. seq.; or
   (2) Received an Extension of the primary approval.

   If the primary approval expires, the subdivider shall be required to re-submit a written application and primary plat to the Plan Commission for the staff to review and reapprove the primary plat before work can begin. In that event, the resubmitted Primary Plat shall include any modifications that have been made to the plat since the documents original submission.

E. **EXTENSIONS:** One (1) extension, for a maximum of up to two (2) years, may be requested without the necessity of further Notice and a Public Hearing so long as the same is requested, in writing, prior to the expiration of the initial two (2) year time frame.

   Additional extensions of up to two (2) years may be requested so long as the extension is requested prior to the previous extension's expiration. Once the first extension has been granted as outlined above, all additional extensions shall only be granted upon Notice and a Public Hearing being held.

Upon receiving a written request for any extensions permitted under this section, the Plan Commission shall review the Primary Plat for compliance with current standards and consider the performance of the subdivider to date. The Commission may also consider the economic trends and other factors which may be affecting the viability of the subdivision such as changes in adjacent land uses and/or revisions to zoning of abutting land.

No extensions shall be granted pursuant to this provision if the proposed subdivision no longer complies with the existing standards in effect at the time the extension is requested.

If subdivider allows any extensions granted under this section to expire without properly seeking a new extension, the Primary Approval will be deemed null and void and subdivider will be required to resubmit a written application for Primary Approval and pay all necessary fees.

14-3-6. STAFF ACTION: SECONDARY APPROVAL *(Step 4)*: *Within two (2) years of receiving primary approval, the subdivider shall prepare and submit a Secondary Plat to the staff of the Plan Commission for Secondary Approval as detailed in Section 14-3-8 (IC 36-7-4710(a)).*

A. Secondary approval shall be granted only after it has been determined that all improvements and installations have been constructed and completed as required in this Ordinance or that a bond for said improvements and installations has been posted.

B. Prior to receiving secondary approval, the secondary plat must be signed by the Commission granting their acceptance of the dedication of any new public right-of-ways indicated on the plat.

C. The secondary plat must be signed by the officials designated by this Ordinance prior to being recorded.

D. In the case of a phased subdivision, Secondary Plats may be submitted in phases so long as each phase conforms to all requirements for subdivisions and Primary Plat Approval as found within this Ordinance. The first Secondary Plat shall be submitted to the Plan Commission for Secondary Approval no later than two (2) years after receiving Primary Approval. Each successive Secondary Plat shall be submitted for Secondary Approval no later than two (2) years from the date of the last approved Secondary Plat.

   If two (2) years elapses between the last approved Secondary Plat and the submission of a Secondary Plat for the next Phase of the subdivision, unless an extension is sought and granted pursuant to Section 14-3-5 of this Ordinance, the subdivider shall be required to submit a new application for Primary Approval and pay all necessary fees.

A subdivider may request extensions of primary approval for the particular Phase of the development the subdivider is currently in at the time of the request. Each Phase of the development will be entitled to one (1) extension, for a maximum of up to two (2) years, without the necessity of further Notice and a Public Hearing so long as the same is requested, in writing, prior to the expiration of either the initial two (2) year timeframe from which primary approval was granted (Phase I), or, from when the last Secondary Approval was granted.

In accordance with Section 14-3-5 of this Ordinance, once the first extension for each Phase has been granted as outlined above, all additional extensions shall only be granted upon Notice and a Public Hearing being held.

E. In the event that the improvements and installations required by this chapter have not been installed, the Commission may request, as a condition of approving Secondary Plat, a Guarantee that the improvements will subsequently be installed by the owner in the form of a surety bond, an irrevocable letter of credit, or any other guarantee that is first approved by the Commission and that will cover 110% of the costs of all required improvements, as certified by the Town Engineer and approved by the Commission.

F. Once approved, the subdivider shall record the Secondary Plat at the Porter County Recorder's office. If the Secondary Plat is not recorded within one (1) year from the date the Plan Commission granted approval, the Secondary Approval shall become void and the subdivider required to seek re-approval from the Plan Commission prior to filing the Secondary Plat.

14-3-6.25. STAFF ACTION: UNDERGROUND INFRASTRUCTURE ACCEPTANCE (Step 5):
After the Commission grants secondary approval, acceptance of the Underground improvements (Sanitary/Storm) shall occur upon the following:

i. The Underground improvements have passed all relevant testing;
ii. The Commission receives a recommendation for acceptance of the Underground improvements from the Sanitary Board;
iii. The Commission issues a favorable recommendation to the Town Council;
iv. Town Council approves the Underground infrastructure; and
v. Subdivider posts a bond in an amount determined, by the Town Engineer, to be ten percent (10%) of the total construction cost of the improvements, guaranteeing said improvements against defects in material and workmanship until the Above Ground infrastructure is accepted.

14-3-6.5. STAFF ACTION: ABOVE GROUND INFRASTRUCTURE ACCEPTANCE (Step 6):
Upon completion of all improvements and installations, the Town shall accept all Above Ground improvements upon the following:

i. Subdivider informs Plan Commission of its intention to request that the Town accept the Above Ground Infrastructure;
ii. The Town Engineer and Building Commissioner generate a Punch List of any necessary repairs and/or remaining installations;
iii. Punch List completed to the satisfaction of the Commission;
iv. Town Engineer determines and recommends Maintenance Bond amount; said amount shall be equal to ten percent (10%) of the total construction cost of the improvements, guaranteeing said improvements against defects in material and workmanship for a period of two (2) years. (Ordinance 211, March 5, 2008).
v. Plan Commission issues a favorable recommendation to the Town Council for acceptance;
vi. Town Council approves the Above Ground Infrastructure; and
vii. Subdivider submits Maintenance Bond recommended by the Town Engineer.

14-3-7. PRIMARY PLAT REQUIREMENTS: The owner or subdivider shall provide a primary plat for the subdivision which shall show the manner in which the proposed subdivision is coordinated with the Comprehensive Master Plan and its provisions, specifically with relation to the requirements of the Official Thoroughfare Plan; school and recreational sites; shopping centers; community facilities; sanitation, water supply and drainage, and other developments, existing and proposed, in the vicinity; provided, however, that no land shall be subdivided for residential use unless adequate access to the land over improved streets or thoroughfares exists or will be provided by the subdivider, or such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, objectionable earth and rock formation, topography, or any other feature harmful to the health and safety of possible residents and the community as a whole.

Whenever possible, the required information may be shown on the preliminary plat. If that is not possible, a separate written report which includes the appropriate information must be presented to the Commission.

A. **LOCATION MAP**: The subdivider shall provide a location map (which may be prepared by indicating the site by notations on available maps or on the primary plat) showing the following:

1. Subdivision name and location.
2. Any thoroughfares related to the subdivision.
3. Physical features such as wooded areas, swamps, wetlands, and marshes.
4. Future access plans of the entire property which is being subdivided.
5. Existing elementary and high schools, parks and playgrounds serving the area proposed to be subdivided, and other community facilities.

6. Title, scale, north point and date.

7. Location of any existing recorded subdivision plats on adjacent property.

B. **PLAN AND PROFILE**: A detailed plan and profile of all proposed roads, sanitary improvements and drainage improvements showing the layout and gradients (exaggerated scale) shall be filed along with the primary plat.

C. **WATER SUPPLY AND SEWAGE DISPOSAL REPORT**: The subdivider shall provide a water supply and sewage disposal report showing the following information.

1. Distance and location of existing public sewer and water mains if such facilities exist within a five (5) mile radius of the proposed subdivision.

2. Soil Conservation Service soil information with soil boundaries, soil identification codes and soil names, clearly marked on the primary plat.

3. Types of water supply to be used, public or private systems.

4. Types of sewage disposal systems to be used, public or private systems.

5. A letter from the Town's Sanitary Board indicating there is sufficient treatment plant capacity and that the connection to the municipal sewer is feasible for the subdivision.

D. **WATERSHED MAP**: The subdivider shall provide a watershed map showing the following information.

1. Location of subdivision within the watershed.

2. Intermediate streams, drainage courses and reaches within the total watershed. Delineation of the watershed flowing into the proposed subdivision and the number of acres within the watershed.

3. Delineation of the watershed flowing out of the proposed subdivision and the number of acres within the watershed. Flood plains and flood ways as shown on maps published by the Federal Insurance Administration.

4. If the subdivision falls within a designated flood hazard area, the staff shall forward the proposal to the Department of Natural Resources for their review and comment. The staff shall review the proposal to assure that it is consistent with the need to minimize flood hazards; all public utilities and facilities are located, elevated and constructed so as to minimize or alleviate flood damage; and adequate drainage is provided so as to reduce exposure to flood hazards. The Registered Land Surveyor preparing the subdivision shall certify compliance to the National Flood Insurance Program.

E. **PARK LANDS:**

1. Required Dedication: The subdivider of residential real estate shall set aside land for park and recreational purposes with a minimum requirement of seven (7) acres of land per 1,000 of the planned ultimate population of the subdivision in accordance with the following classifications: Typical Unit Category Acreage Requirement per
   Development Unit Single-Family .0102 Duplex .0102 Apartment/Other Multi-Family Dwellings .0087

2. Location: Attention shall be given to locating park and recreational land in locations which will serve the quadrant of the Town for which the subdivision is being proposed, quadrants being formed by the bisection of the Town by I-94 running East to West and State Highway 149 running from North to South. Location of real estate set aside shall be subject to the approval of the Plan Commission upon recommendation by the Burns Harbor Park Department. Dedicated real estate shall be provided with appropriate utilities and improvements such as but not limited to curbs, gutters, sidewalks as the Plan Commission determine necessary.

3. Alternatives to Dedication: The Plan Commission may allow the subdivider to make a cash contribution in the amount of $500.00 for each lot in the plat of subdivision in lieu of donating land for use by the Park Department. Payment of the cash contribution shall be made no later than upon the issuance of the first building permit. In the alternative, the subdivider may provide a surety or letter of credit representing the amount of the cash donation and providing, in terms approved by the Plan Commission's attorney, that the cash contribution shall be paid in full upon the earlier of one (1) year after secondary plat approval or upon building permits being issued for more than 50% of the buildable lots in the subdivision. The contribution shall be deposited in a non-reverting capital fund for use as directed by the Burns Harbor Park Department for capital improvements of park properties in any quadrant of town.

F. **PRIMARY PLAT**: The subdivider shall provide a primary plat showing:

1. Proposed name of the subdivision.

2. Names and addresses of the owner, subdivider and the engineer or surveyor, who prepared the plan.

3. Layouts of lots, showing dimensions and numbers.

4. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds or other public, semi-public or community purposes.

5. Contours at vertical intervals of two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of five (5) feet if the general slope is greater than ten percent (10%).

6. Tract boundary lines showing dimensions, bearing, angles, and references to section, township and range lines or corners.

7. Building setback or front yard lines.

8. Legend and notes.

9. Other features or conditions which would affect the subdivision favorably or adversely.

10. Scale, north point and date. The primary plat of the subdivision shall be drawn to a scale of fifty feet (50') to one inch (1"); or one hundred feet (100') to one inch (1"); provided, however, that if the resulting drawing would be over thirty-six inches (36") in shortest dimension, a scale as recommended by the Commission may be used.

11. A description of the protective covenants or private restrictions to be incorporated in the plat of the subdivision.

12. That the protective covenants require builders or owners to incorporate the following Town subdivision standards into any construction:
    a) Landscaping:
       (1) All front yards shall be sodded and all side yards and/or back yards shall be seeded or sodded before the issuance of an occupancy permit or within an extension of time granted by the Building Commissioner due to inclement weather with performance by the extended deadline being secured by a $3,000 cash bond posted with the Town.
       (2) All trees to be planted pursuant to Section 15-13-20 shall be planted before the issuance of an occupancy permit and shall be guaranteed by the developer as part of the infrastructure guarantee submitted in accordance with Section 14-5-11(A).
    b) Foundation Grade: The finished grade of the lot at the foundation of the home constructed thereon may be no more than 28” above the grade of the lot measured at the back of the curb located at the front of the lot.
    c) Street Maintenance: The streets in the subdivision in front of any lot upon which construction is occurring must be cleaned at least as often as monthly.
    d) Construction Equipment: No construction equipment may be parked on the streets of the subdivision on weekends or after working hours.

13. Statement that all disturbed areas including, but not limited to, road shoulders, retention ponds and retention dikes shall be stabilized.

14. Landscape plan, including a depiction of the number and approximate location of trees that will be planted in the parkway areas (defined as the space between the sidewalk and the street), along with an electronic copy and a printed copy of the covenants to be recorded guaranteeing the care and maintenance of said trees.

14-3-7.5 MINOR SUBDIVISION APPROVAL; ESTABLISHMENT OF A PLAT COMMITTEE: A plat committee is hereby established in accordance with I.C. 36-7-4-701 and shall consist of three (3) persons, at least one of whom shall be a member of the Commission. Members shall be appointed by the Commission for one (1) year terms and may be removed by the Commission in accordance with I.C. 36-7-4-701. The Plat Committee may grant primary and secondary approval to minor subdivisions without public hearing,

provided the plats meet with the requirements of this chapter. The plat committee shall provide for due notice to interested parties of the right to appeal the action of the plat committee under I.C. 36-7-4-708. “Interested parties” shall mean the petitioner and all owners of real estate located within 300 feet of the proposed subdivision. The plat committee may adopt rules governing its duties which must be approved by majority vote of the entire committee.

14-3-8. SECONDARY PLAT REQUIREMENTS: In order to obtain secondary approval the subdivider must present a plat containing the following information to the Commission:

A. **SECONDARY PLAT DRAWING**: The original drawing of the secondary plat of the subdivision shall be drawn to a scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used. Three black or blue line prints shall be submitted with the original plat, or in order to conform to modern drafting and reproduction methods, three black line prints and a reproducible print shall be submitted. In addition three black or blue line prints of the plan and profile of the roads and drainage improvements shall be submitted with the original plan and profile sheet(s).

B. **SECONDARY PLAT INFORMATION**: The following basic information shall be shown on the drawing:

1. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in ten thousand (10,000) feet.

2. Accurate distances and directions to the nearest established street corners or official monuments. Reference corners shall be accurately described on the plat.

3. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.

4. Accurate metes and bounds description of the boundary.

5. Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.
6. Street names and numbers. Petitioner shall provide proof that street names and numbers have been presented to the United States Postal Service and the Porter County E 9-1-1/Public Safety Department for review. *(Ordinance 219,12/17/2008)*

7. Complete curve notes for all curves included in the plan.

8. Street lines with accurate dimensions in feet and hundredths of feet, with angles to street, alley and lot lines.

9. Lot numbers and dimensions.

10. Accurate locations of easements for utilities and any limitations on such easements.

11. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

12. Building setback or front yard lines and dimensions.

13. Locations, type, material and size of all monuments and lot markers.

14. Plans and specifications for the improvements and lot markers.

15. Restrictions of all types which will run with the land and become covenants in the deeds for lots.

16. Name of the subdivision.

17. Name and address of the owner and subdivider.

18. North point, scale and date.

19. Certification by a registered professional engineer or registered land surveyor.

20. Certification of dedication of streets and other public property.

21. Certificates for approval by the Commission.

22. Certificate of approval by the Commission whenever new public right-of-ways are established.

23. Notice that all disturbed lands will be stabilized.

C. **PLAN AND PROFILE**: A detailed final plan and profile of all proposed roads and drainage improvements showing the layout and gradients *(exaggerated scale*) shall be filed along with the secondary plat with the Commission.

D. **INDUSTRIAL AND COMMERCIAL SUBDIVISIONS**: A subdivision of property for industrial or commercial uses shall follow the same procedure as outlined in this Ordinance for residential subdivisions. It shall, however, follow the standards for lot size, setbacks, etc., as required by the Town of Burns Harbor Zoning Ordinance.

E. **CERTIFICATES**: The secondary plat shall contain the following certificates:

1. Commission Certificate

Under Authority Provided by IC 36-7-4 enacted by the General Assembly of the State of Indiana, and all Acts Amendatory thereto, and an ordinance adopted by the Town Council of the Town of Burns Harbor, Indiana, this plat was given approval by the Town of Burns Harbor.

Approved by the Town of Burns Harbor Plan Commission on:
_____, 20___.

BURNS HARBOR PLAN COMMISSION

2. Engineers Certificate

I, _____, Hereby certify that I an a professional engineer (or a registered land surveyor), licensed in compliance with the laws of the State of Indiana, and that this plat correctly represents a survey completed by me on _____, that all the monuments shown thereon will be installed in accordance with the provisions of the Subdivision Control Ordinance of the Town of Burns Harbor, and that their location, size, type and material are accurately shown. In addition, this plat is in compliance with all of the plans and specifications of the Town of Burns Harbor.

SEAL Signature

3. Deed of Dedication

We, the undersigned _____, 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 this plat.

This subdivision shall be known and designated as _____, an addition to _____. All streets and alleys shown and not heretofore dedicated, are hereby dedicated to the public.

Front and side yard building 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.

There are strips of ground _____ feet in width as shown on this plat and marked "Easement", reserved for the use of public utilities for the installation of water and sewer mains, surface drainage, poles, ducts, lines and wires, 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 said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities.

Care and maintenance of all trees planted in any easement dedicated to the Town or in any parkway area (as defined by Section 15-13-20(B)) shall be the responsibility of the owner or owner's assigns and successors in interest.

[Additional dedications and protective covenants, or private restrictions, would be inserted here]

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___, (A twenty-five (25) year

period is suggested) *at which time said covenants,* (or restrictions), *shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the building sites covered by these covenants or restrictions, in whole or in part. Invalidation of any one of the foregoing covenants or restrictions, by judgment of court order shall in no way affect any of the other covenants or restriction which shall remain in full force and effect.*

Witness our hands and seals this _____ day of _____, 20____.

STATE OF INDIANA

SS: TOWN OF BURNS HARBOR

Before me the undersigned notary public, in and for the Town and State, personally appeared _____, and each separately and severally acknowledged the execution of the foregoing instrument as his or her voluntary act and deed, for the purpose herein expressed.

Witness my hand, and notarial seal this _____ day of _____, 20____.

F. SECONDARY PLAT APPROVAL

A. IMPROVEMENTS AND INSTALLATIONS: Pursuant to Indiana Code 36-7-4-708, the Building Commissioner and the Town Engineer shall determine if all improvements and installations have been constructed and completed as required by the Subdivision Control Ordinance and shall report that determination to the Commission before it grants secondary approval to any Plat.

a. In the event that the improvements and installations required by this chapter have not been installed, the Commission may request, as a condition of approving Secondary Plat, a Guarantee that the improvements will subsequently be installed by the owner in the form of a surety bond, an irrevocable letter of credit, or any other guarantee that is first approved by the Commission and that will cover 110% of the costs of all required improvements, as certified by the Town Engineer and approved by the Commission.

b. The Guarantee submitted in accordance with this section may be reduced or partially discharged only by the Commission, provided that the owner has submitted as-built drawing identifying the actual location of any constructed improvements, along with an estimate of the cost of the remaining improvements and installations approved as part of the Secondary Plat.

c. The Commission shall reduce the Guarantee in the amount certified by the Town Engineer after review of the as-built drawings and the estimate of the remaining improvements, subject to receipt of a revised letter of credit.

d. The reduction of the Guarantee shall not constitute acceptance of the improvements by the Town.

e. Upon completion and acceptance of all improvements and the discharge of the remaining Guarantee, the owner shall submit a Maintenance Guarantee in the amount of ten percent (10%) of the total construction cost of the improvements, guaranteeing said improvements against defects in material and workmanship for a period of two (2) years.

B. All landscaping of common areas within any subdivision shall be the responsibility of the developer or the sub-divider, and the requirements for such common area landscaping shall be a requirement for secondary plat approval or the performance of said landscaping shall be secured by the infrastructure guarantee.

C. **COPY OF THE RECORDED PLAT:** No occupancy permits shall be issued for any subdivision or planned unit development until a copy of the recorded plat is filed with the Building Commissioner.

Section 3.5 - PLANNED UNIT DEVELOPMENTS

14-3.5-1 PURPOSE.

A Planned Unit Development (PUD) is a privilege that will be granted in only those cases that it is determined by the adoption of a PUD ordinance that a PUD will promote proper development which is of benefit to the Burns Harbor Community as a whole. A PUD is not a right which can be claimed solely by apparent compliance with standards established in this Section.

A PUD should encourage innovations in development so that the growing demands for housing may be met by greater variety of type, design, and siting of dwellings which promotes the conservation and more efficient use of land. PUD also encourages the conservation and more efficient use of land for non-residential development. A rigid set of space requirements along with building and use specifications might frustrate the application of these concepts. Accordingly, where a PUD district ordinance is deemed appropriate, the land may be designated and developed as a PUD district in strict accordance with the Planned Unit Development Ordinance that must be adopted pursuant to Indiana Code 36-7-41500 et seq.

14-3.5-2 OBJECTIVES.

In order to carry out the intent of this Article, a PUD should endeavor to provide:

A. A choice in the types of environment, occupancy tenure, types of housing, types of ownership, and community facilities available to existing and potential residents;

B. Usable open space and recreational areas;

C. Convenience in the location of accessory, commercial, and service areas;

D. Preservation of natural topographical and geological features with emphasis on:

   1. Prevention of soil erosion;

   2. Conservation of existing surface and sub-surface water; and

   3. Preservation of tree cover, unique or sensitive natural areas and/or preservation of quality open space;

E. A safe and efficient network of streets;

F. An efficient network of utilities;

G. The development of land consistent with the objectives of the Burns Harbor Comprehensive Plan; and

H. A more efficient utilization of the land than might be obtained through other development procedures.

14-3.5-3 DELEGATION.

No authority to conduct secondary review of a PUD district ordinance under Indiana Code 36-7-4-1509(c) is granted as the Town Council expects that any PUD district ordinance presented to it shall express in detailed terms the development requirements that apply, as opposed to development requirements being expressed in general terms. In situations where the PUD district ordinance includes detailed terms of development requirements that apply, secondary review of the PUD district ordinance is not required. However, all platting requirements of the Burns Harbor Subdivision Control Ordinance (this Chapter 14 of the Burns Harbor Town Code) are hereby adopted as the procedure for platting all parcels of real property for which a PUD District ordinance is adopted.

14-3.5-4 PROCEDURE FOR PLANNED UNIT DEVELOPMENT DISTRICT ORDINANCE CONSIDERATION.

A. Petitioner, who must hold either legal or equitable title to the real estate in question, files a concept plan at the Office of the Burns Harbor Clerk/Treasurer at least ***seventeen (17)*** days in advance of the next scheduled Plan Commission meeting. The concept plan does not require a formal application, a fee or the filing of a proposed PUD district ordinance.

B. The Plan Commission shall review the concept plan and its related documents. The Plan Commission may call upon other public and/or private consultants as necessary to provide a sound review of the concept plan. This review of the plan is only concerned with general conceptual merit and in no way shall commit to any future acceptance or rejection of the detailed PUD district ordinance.

C. Once concept plan review has been deemed completed by the Plan Commission, the petitioner may submit its formal proposed PUD district ordinance to the Plan Commission. These documents must be filed at least ***seventeen (17)*** days in advance of the next regularly scheduled Plan Commission meeting ro be considered at that meeting, unless the Plan Commission waives this requirement, and the petitioner must pay all applicable fees due at this time.

D. The Plan Commission will then determine whether the proposed PUD district ordinance is in proper form and contain all of the information required by this Article and, in the event these questions are answered in the affirmative, shall then set this matter for a public hearing in accordance with its Rules and Regulations for public hearings.

E. Petitioner must meet with Burns Harbor Department of Parks and Recreation for purposes of obtaining the Park Board's recommendation to the Plan Commission concerning open space for this development.

F. The Plan Commission holds a public hearing on the proposed PUD district ordinance.

G. When official action is taken by the Plan Commission on the proposed PUD district ordinance, the Plan Commission must certify its official action to the Town Council with either a favorable recommendation, an unfavorable recommendation or no recommendation.

H. The Town Council must consider the proposal for a PUD district ordinance in accordance with Indiana Code 36-7-4-608.

I. In the event a PUD district ordinance is adopted, the petitioner may then proceed with Primary and Secondary Plat approval before the Plan Commission utilizing the same procedures and requirements set forth in the subdivision regulations found in this Chapter 14 of the Burns Harbor Town Code as if the same had been reprinted herein in its entirety. However, in order to assist petitioners in this process, petitioners shall be allowed to initiate the Primary Plat approval process during PUD district ordinance process so that the same night the public hearing takes place for the PUD district ordinance, a properly prepared petitioner may request the Plan Commission set a public hearing for Primary Plat approval for the development.

14-3.5-5 GENERAL REQUIREMENTS.

A. No building or structure shall be closer than 25 feet to any lot line dividing land inside the PUD district from land zoned or used as residential outside the PUD district.

B. All of the regulations of this the Burns Harbor Town Code including the Subdivision Control Ordinance (Chapter 14) and the Zoning Ordinance (Chapter 15) concerning both uses and development standards shall apply to the PUD District, unless the PUD district ordinance provides for and specifically delineates the variances requested from the use districts and development standards set forth in this Ordinance.

14-3.5-6 SITE AND STRUCTURE REGULATIONS.

A. Site and Structure regulations for PUD Districts shall adhere to the following regulations:

1. Plot and lot sizes, dimensions, structure heights, and locations thereon may be freely disposed and arranged in conformity to the overall density standards recommended by the Plan Commission or stated in this Article. Minimum lot size, frontage, and maximum lot coverage are specified Subdivision Control Ordinance (Chapter 14) and the Zoning Ordinance (Chapter 15). In order to vary the Burns Harbor Town Code concerning the same, a request must be made. The Plan Commission may be guided by common, good planning practice.

2. District regulations governing side and rear yard sizes in residential areas may be varied. However, proper buffering and landscaping must be included in the proposed PUD district ordinance when conflicting or dissimilar land uses abut.

3. A minimum of a 30 foot from yard setback shall be provided on any County road, State or Federal highway, or on any thoroughfare designated as arterial or collector in the thoroughfare component of the Burns Harbor Comprehensive Plan. This minimum may be altered in the sound discretion of the Plan Commission and Town Council in mixed use or non-residential portions of the PUD district Ordinance as specifically delineated in same.

4. All open spaces between structures shall be protected by fully recorded covenants running with the land.

5. Every residential dwelling unit, business or industrial complex or building shall have access to a public street, court, walkway or other area dedicated to public use or subject to an easement for access. The boundaries and extent of the lot or plot upon which any single unit detached or attached dwelling is located shall be clearly defined and monumented.

6. Right-of-way and pavement widths for internal ways, streets, and alleys shall be determined from sound planning and engineering standards in conformity with the estimated needs of the full development proposed and the traffic to be generated not only form the development but from adjoining parcels of land and shall be adequate and sufficient in size, location, and design to accommodate the maximum traffic, parking, loading needs, and the access of firefighting equipment and other emergency vehicles.

B. The developer of a PUD district shall furnish public water and sanitary sewage facilities based on agreement with the appropriate municipal officials and/or utility companies. The developer shall provide all necessary storm drainage, highway access, paved service streets, parking facilities, fire hydrants, off-street lighting, and other public improvements deemed necessary by the Town, and shall make reasonable provision for service to the connection with adjoining properties held in other ownership.

14-3.5-7 USABLE OPEN SPACE.

Usable open space is of paramount importance to any proposed PUD district ordinance. Usable open space is considered to be land easily adaptable for active recreational uses such as softball fields, soccer fields, and the like along with passive uses such as recreational trails, picnic areas and the like. At a bare minimum, any PUD district ordinance proposal must contain provisions for lands for local park and recreational purposes in accordance with Section 14-3-7 of this Chapter.

14-3.5-8 GENERAL STANDARDS.

The PUD district ordinance should substantially conform to the Burns Harbor Comprehensive Plan with respect to type, character, and intensity of use and public facilities. Exceptions to Burns Harbor’s Comprehensive Plan may be made in the adoption of a PUD district ordinance when there would be a direct and substantial benefit to the

Town.

The PUD shall be located in an area in which transportation systems, police an fire protection, other public facilities and utilities, including sewage and water, are or will be available when the parcel is developed and are adequate for the uses proposed. Provided, however, that the petitioner may make provisions for such facilities or utilities which are not presently available.

There is no minimum PUD size contained in this Ordinance.

In examining the proposed PUD district ordinance, the Town Council and its Plan Commission shall consider the following:

A. Compatibility of the development with surrounding land uses;

B. Availability and coordination of water, sanitary sewers, storm water drainage, and other ultilities;

C. Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community. In considering the criteria listed under this number, the proposed PUD district ordinance must provide for the following:

    1. That the design and location of the proposed street and highway access points minimize safety hazards and potential congestions;

    2. That the capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and

    3. That the entrances, street, and internal traffic circulation facilities in the proposed PUD district ordinance and development plan are compatible and, wherever feasible, connectible with existing and planned streets and adjacent developments.

D. Whether the major components of the PUD district are appropriately located and are able to continue to function as a sole and separate unit if all phases of the PUD are not completed, taking into consideration factors such as the Infrastructure Guarantee procedures and subdivision regulations all as found in this Chapter.

E. Building setback lines;

F. Density of proposed development;

G. Building coverage;

H. Building separation;

I. Vehicle and pedestrian circulation;

J. Parking;

K. Landscaping

L. Height, scale, materials, and style of improvements;

M. Signage;

N. Open space including park and recreational space;

O. Outdoor lighting;

P. Conformance to Town Standards;

Q. Whether or not the PUD is a genuine PUD or represents an attempt to circumvent the prescribed Zoning and/or Subdivision Regulations without a resulting benefit to the Burns Harbor community as a whole;

R. Effects on public health, safety, morals, and welfare;

S. Preservation of natural topographical, geological features with emphasis upon:

1. Prevention of soil erosion;
2. Conservation of existing surface and subsurface water;
3. Preservation of sensitive or unique natural areas; and
4. Preservation of major trees or other environmental enhancing features.

T. Other requirements considered appropriate by the Town Council and its Plan Commission.

14-3.5-9 PERMITTED USES.

Table “1" located in the Chapter 15 (page 30) of the Burns Harbor Town Code shall apply to uses for the proposed PUD district ordinance. However, the uses may be varied by complete compliance with this Article int eh sound discretion of the Town Council upon receiving advice from its Plan Commission.

14.3.5-10 CONCEPT PLAN.

In order to allow the Plan Commission and the petitioner to reach an understanding of the basic design requirement prior to detailed design, the developer shall submit as its concept plan the following:

A. An area map showing the property proposed to be developed as a PUD and also adjacent property owners and existing uses located within 300 feet of the parcel in question.

B. A legal description of the parcel proposed as a PUD.

C. A list of all requested variances from the Subdivision Control Ordinance (Chapter 14) and the Zoning Ordinance (Chapter 15) that the petitioner wishes to be part of this PUD.

D. A list including location of all proposed uses to be contained within the PUD.

E. A sketch plan approximately to scale, though it need not be to the precision of a finished engineering or architectural drawing, that clearly shows the following:

1. The existing features of the site including topography;
2. The proposed location of the various uses and their areas in acres;
3. The general outlines of the proposed interior roadway system and all existing rights-of-ways and easements, whether public or private;
4. Delineation of the various residential areas indicating for each such area its general extent, size, and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling type;
5. Delineation of the various nonresidential areas such as commercial or industrial areas, indicating for each such area its general extent, size, and composition in terms of total number of buildings and approximate percentage allocation by unit type;
6. A calculation of the residential density in dwelling units per gross acre including interior roadways;
7. The interior open space system including land to be utilized for park and recreational purposes;
8. Where portions of the site are subject to flooding, the plan shall indicate extent and frequency;
9. Where areas lie in aircraft approach and holding patterns such areas shall be indicated;
10. The proposed subdivision for disposition of storm water and sanitary sewage and source of water service;
11. The substance of any covenants, grants, easements, or any other restrictions to be imposed upon the land or buildings including locations and widths;
12. The proposed provisions for streets, walkways, and parking including locations

and widths;

13. The general description of the availability of other community facilities such as schools, fire protection services, parks, and how these facilities will be affected by the proposal;

14. General statement as to how common open space is to be owned and maintained; and

15. If the development is to be phased, a general indication of how the phasing is to proceed.

The purpose of the concept plan is to obtain as much information about the proposed PUD as possible and to make advice and assistance available to the petitioner, and to allow the Plan Commission, the Burns Harbor Department Heads, and the petitioner to discuss the proposal and determine whether a PUD based, in general, upon the concept plan appears to be in general compliance with this Article.

14-3.5-11 PUD DISTRICT ORDINANCE.

Once the Plan Commission has concluded the concept plan process by giving its advice to the petitioner, the petitioner may then formally submit an application on the form prescribed by the Plan Commission for a PUD district ordinance. The proposed PUD district ordinance shall express, in detailed terms, all development requirements that apply to the proposed PUD District. It is understood and agreed to by the petitioner that all Town standards, use and development standards shall apply to the PUD district unless the variances to same are specifically delineated in the written text portion of the PUD district ordinance.

All PUD district ordinances will consist of two (2) components, the first being the written text of the ordinance and the second being the detailed plan for the development of this parcel in the form of a drawing as set forth in this Section.

A. The written text portion of the PUD district ordinance shall contain at least the following:

1. Name and address of petitioner;

2. Legal description of proposed PUD District;

3. A copy of the recorded document showing petitioner's ownership interest in this parcel;

4. All Town Standards, use and development standards unless the variances to same are specifically delineated;

5. Delineation of all uses and area in acres of each proposed use;

6. Total number of residential units and percent of each type of each residential uses;

7. Delineation of each business and/or industrial use, and total area in acres of each business and/or industrial use;

8. Phasing schedule of development;

9. Detailed description of location and proposed use for all proposed open and/or recreational spaces;

10. General description of community services available to the proposed PUD District's residents including schools, fire protection, parks, and all public/private utilities;

11. General statement on proposed ownership and maintenance of common open space;

12. Proposed construction schedule;

13. A general statement demonstrating how the proposed PUD district ordinance conforms to:

    a. The Objectives of PUD Districts as set forth in Section 143.5-2 of this Chapter, which shall include a specific written submission addressing the items in Section 14-3.5-8(S), having to do with preservation of natural topographical and geological features of the land in a proposed PUD District;

    b. A list of all proposed written commitments concerning the use and development of the land contained in the proposed PUD district ordinance.

B. The drawing portion of the PUD district ordinance showing the plan of development for this parcel shall include electronic copies (both CAD file and PDF) and three (3) printed copies or as directed of the proposed plan of development with the following information:
   1. An area map showing the property under consideration and all properties and easements within 300 feet of the petitioner's property;
   2. A topographic map showing contour intervals of not more than two feet of elevation shall be provided;

   The drawing shall include:

   a. The name and address of the petitioner;

   b. Legal description of the proposed PUD District;

   c. North point, scale and date;

   d. Boundaries of the properties platted to scale;

   e. Existing water courses;

   f. a development plan showing location, proposed use and height of all buildings;

g. Location and proposed development of all open spaces including parks, playgrounds, and open reservations;

h. All areas where natural vegetation will be preserved shall be noted;

i. Location of outdoor storage, if any;

j. Location of all existing and proposed infrastructure improvements, including roads, sidewalks, pedestrian ways, bike paths and the like, drains, culverts, retaining walls and fences, retention or detention ponds and the like, descriptions of the methods of sewages and solid waste disposal and water utility, and location of such facilities, location and size of all signs, location and design of all streets, parking and truck load areas with ingress and egress drives relating to the same and including proposed lighting for parking or truck loading areas;

k. A transparent overlay or separate map showing all soils, areas, and their classifications, including those areas with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion.

In its review, the Plan Commission and/or Town Council may wish to consult with the Town Engineer, the Town Attorney, the Plan Commission Attorney, Department Heads and other agencies, including, but not limited to, representatives of Federal and State agencies including Soil Conservation Service, Department of Natural Resources, Army Corps of Engineers, and the Indiana Department of Environmental Management. Independent consultants or companies may be retained by the Town Council or its Plan Commission to seek assistance to properly review the proposed PUD district ordinance. All consultant and other fees required by this Ordinance to be paid by the petitioner shall be paid on an ongoing monthly basis throughout the entire PUD district and platting process with the last payment required within 30 days after the conclusion of the PUD district ordinance process and then again within 30 days after the conclusion of the platting process. All fees required must be paid regardless of whether the proposed PUD district ordinance of the applicant is approved, amended, rejected or withdrawn by the petitioner or dismissed for lack of prosecution of same by the petitioner. The Town Council or its Plan Commission may also require such additional information in any proposed PUD district ordinance that appears to said boards to be of assistance in its consideration of this matter.

14-3.5-12 WRITTEN COMMITMENTS AND INFRASTRUCTURE GUARANTEES.

When adopting or amending a PUD district ordinance, the Town Council may do any or all of the following:

A. Impose reasonable conditions on a proposed PUD;

B. Allow or require the petitioner, as owner of the real property contained within the PUD district ordinance, to make a written commitment concerning the use and development of this parcel in a manner authorized by Indiana Code 36-7-4-615.

The circumstances under which a written commitment can be made, modified or terminated will be all circumstances in which the making, modification or termination of a written

commitment is deemed to be in furtherance of the intent and the objectives contained in this Article as determined in the discretion of the Town Council, in the case of the adoption or amending of a PUD district ordinance. The Town Council may require or allow a written commitment, or may approve or disapprove modification or termination of a written commitment to any extent it deems appropriate in attempting to further the intent and objectives of this Chapter.

The Town Council may permit or require a written commitment by the petitioner which shall be in written form, and detailed on the written portion of the PUD district ordinance and also on the plat of development for the PUD district in recordable form acceptable to the Office of the Recorder of Porter County. The written commitment may be enforce by the Town or its Plan Commission or any property owner within the PUD district or any property owner within 300 feet of the PUD District. Enforcement by the owners of property within the PUD district or property owners within 300 feet of the PUD district are determined to be classes of specially affected persons who may enforce a written commitment by seeking of an injunction and/or damages in a court of competent jurisdiction. The Town Council and/or its Plan Commission is also considered a class of specially affected persons who may enforce a written commitment in the same manner in which private citizens may as set forth above. Additionally, the Town Council or its Plan Commission may, through the Town Attorney to Plan Commission Attorney, file suit against the offending party in any court of competent jurisdiction seeking a restraining order, temporary or permanent injunction, and also a fine of up to $2,500.00 per day for each violation of the existing written commitment. Additionally, no building or occupancy permit shall be issued for land within the PUD district while a violation of the written commitment exist.

The notice and hearing required for the granting, amending or termination of a written commitment shall be part of the process for consideration of the PUD district ordinance. No termination or modification of a written commitment may be had unless a public hearing is held by the Plan Commission, with due notice to all parties located within 300 feet of the PUD district and given at least 10 days before the date set for the hearing. All other rules of the Plan Commission shall apply in determining how notice is given to interested parties and who is required to give that notice.

14-3.5-13 PRIMARY AND SECONDARY PLAT APPROVAL.

Once a PUD district ordinance is adopted by the Town Council, the petitioner then may make an application upon such forms and upon payment of all required fees with the Plan Commission, who shall have exclusive jurisdiction over the platting contained within a PUD District.

No building permits for the construction of any structures, other than public improvements required for the PUD District, shall be issued until the Secondary Plat of the PUD has been approved and recorded and also until the written guarantee for the infrastructure has been posted and accepted by the Plan Commission.

14-3.5-14 AMENDING A PUD DISTRICT ORDINANCE.

Any amendments to a PUD district ordinance will be processed in the same manner as a zone map change in accordance with this ordinance and the Code of Indiana. There shall be a public hearing and recommendation by the Plan Commission, with proper notice therefore. The Town Council shall act upon the recommendation at a properly noticed public meeting within 90 days of certification of the PUD amendment by the Plan Commission.

14-3.5-15 FEES.

An person, firm, corporation, partnership, limited liability company or any other entity that files a petition for a PUD district ordinance shall be charged a fee in accordance with the schedule of fees *set by the Commission and published in Section 5-15 of the Subdivision Control Ordinance,* as amended from time to time as hereinafter provided. Additionally, any person, firm, corporation, partnership, limited liability company or any other entity shall also be responsible for any costs incurred in the filing of the Secondary Plat or amendments thereto with the Porter County Recorder and the costs of any paid consultants to the Town Council or its Plan Commission including, but not limited to, that of the Town Attorney, Plan Commission Attorney, and the Town Engineer who shall be paid at their prevailing hourly rate for the time in which the work is performed. No building permits shall be issued for any construction in any PUD district for which the aforementioned fees and costs are unpaid.

14-3.5-16 GENERAL.

In administering its responsibilities pursuant to this Ordinance, the Town Council and/or its Plan Commission may promulgate any rule, enter into negotiations or procedures consistent with this Ordinance and/or state law.

Section 4 - PRINCIPLES OF STANDARDS AND DESIGN

14-4-1. GENERAL STANDARDS: The subdivision plan shall conform to the following principles and standards of design in order to qualify for primary approval (IC 36-74-702).

A. **STREETS**

1. The street and alley layout shall provide access to all lots and parcels of land within the subdivision, and where streets cross other streets, jogs shall not be created.

2. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

3. Certain proposed streets, where appropriate, shall be extended to the boundary line of the tract to be subdivided so as to provide for normal circulation of traffic within the vicinity.

4. Wherever there exists a dedicated or platted portion of a street or alley adjacent to the proposed subdivision, the remainder of the street or alley to the prescribed width shall be platted within the proposed subdivision.

5. Widths of primary, secondary and feeder streets shall conform to the width specified in the Thoroughfare Plan.

6. The minimum right-of-way of residential streets, marginal access streets or cul-de-sac, shall be fifty (50) feet. All cul-de-sac shall terminate in a circular right-of-way with a minimum diameter of one hundred (100) feet, or other arrangement for the turning of all vehicles conveniently within the right-of-way. The maximum length of a street terminating in a cul-de-sac shall be no longer than five hundred (500) feet.

7. Alleys shall be discouraged in residential districts but should be included in commercial and industrial areas where needed for loading and unloading or access purposes, and where platted shall be at least twenty (20) feet in width.

8. The center lines of streets should intersect as nearly at right angles (90°) as possible and in no case at less than eighty (80°) degrees.

9. At intersections of streets and alleys, property line corners shall be rounded by arcs of at least twenty (20) feet radii or by chords of such arcs.

10. At intersections of streets the property line corners shall be rounded by arcs with radii of not less than twenty-five (25) feet, or by chords of such arcs.

11. If the smaller angle of intersection of two (2) streets is less than sixty (60) degrees, the radius of the arc at the intersection of property lines shall be increased as deemed advisable by the Commission.

12. Intersections of more than two (2) streets at one point shall be avoided.

13. Where parkways or special types of streets are involved, the commission may apply special standards to be followed in their design.

14. Whenever the proposed subdivision contains or is adjacent to a railroad right-of-way, a street, or a highway designated as a "limited access street or highway" by the appropriate authorities, provision shall be made for a service road at a distance acceptable for the appropriate use of the land between the highway or railroad and such streets.

15. Horizontal visibility on curved streets and vertical visibility on all streets must be maintained along the center lines as follows:

    a. Primary and secondary streets: five hundred (500) feet.

    b. Feeder streets and parkways: three hundred (300) feet.

    c. Residential streets: one hundred fifty (150) feet.

16. Curvature measured along the center line shall have a minimum radius as follows:

    a. Primary and secondary streets: five hundred (500) feet.

    b. Feeder parkways: three hundred (300) feet.

    c. Residential streets: two hundred (200) feet.

17. Between reversed curves on primary and secondary streets there shall be a tangent of not less than one hundred (100) feet and on feeder and residential streets such tangent shall be not less than forty (40) feet.

18. Maximum grades for streets shall be as follows:

    a. Primary and secondary streets, no greater than six percent (6%).

    b. Feeder and residential streets and alleys, not greater than six percent (6%).

19. The minimum grade of any street gutter shall not be less than three-tenths percent (0.3%).

B. **BLOCKS**

1. Blocks should not exceed one thousand three hundred and twenty (1320) feet in length.
2. Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth except where an interior street parallels a limited access highway or primary street or a railroad right-of-way.

C. **LOTS**

1. All lots shall abut on a street or a place.

2. Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this rule is permissible, but pointed or very irregular lots should be avoided.

2. Double frontage lots should not be platted, except that, where desired along federal arterial and state arterial highways and primary streets, lots may face on an interior street and back on such thoroughfares. In that event a planting strip for a screen, at least twenty (20) feet in width, shall be provided along the back of each lot.

3. Widths and areas of lots shall be not less than that provided in the Town of Burns Harbor Zoning Ordinance for single-family dwellings for the district in which the subdivision is located, except that when a water main supply system or a sanitary sewer system are not available, the lot area necessary to install a private water supply or private sewage disposal on the lot in accordance with the State Board of Health regulations shall become the required minimum lot area.

4. The depth-to-width ratio of the usable area of a lot shall be a maximum of 3 to 1.

5. Wherever possible, unit shopping centers, based upon sound development standards, should be designed in contrast to the platting of lots for individual commercial use.

6. Corner residential lots shall be wider than normal in order to permit appropriate setbacks from both streets.

D. **EASEMENTS:** Where alleys are not provided, easements for utilities shall be provided. Such easements shall have minimum widths of twenty (20) feet, and where located along lot lines, one-half the width shall be taken from each lot. Before determining the location of easements the plan shall be discussed with the local public utility companies to assure their proper placing for the installation of such services.

E. **BUILDING LINE**: Shall be as provided in the Zoning Ordinance, Town of Burns Harbor, Indiana.

F. **PUBLIC OPEN SPACES**: Where sites for parks, schools, playgrounds or other public uses are located within the subdivision area as shown on the Comprehensive Master Plan, the Commission may request their dedication for such purposes, or their reservation for a period of one year following the date of the secondary approval of the plat. In the event a governmental agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six (6) months.

G. **STANDARDS OF IMPROVEMENTS**: The improvement of the subdivision shall conform to the following standards:

1. **Monuments or Markers**: Shall be placed so that the center of the pipe or marked point shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.

    a. Monuments shall be set:

        i. At the intersection of all lines forming angles in the boundary of the subdivision.
        ii. At the intersection of street property lines.

    b. Markers shall be set:

        i. At the beginning and ending of all curves along street property lines.
        ii. At all points where lot lines intersect curves, either front or rear.
        iii. At all angles in property lines of lots.
        iv. At all other lot corners not established by a monument.

    c. Monuments shall be of stone, pre-cast concrete, or concrete poured in place with minimum dimensions of four (4) inches by four (4) inches by thirty (30) inches. They shall be marked on top with an iron or copper dowel set flush with the top of the monument or deeply scored on top with a cross. Markers shall consist of iron pipes or steel bars at least thirty (30) inches long, and not less than one-half inch (2") in diameter.

2. **Streets**

    a. 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 registered land surveyor and approved by the Commission.

    b. The streets shall be graded, surfaced and improved to the dimensions required by such plans, profiles and cross-sections and the work shall be performed in the manner prescribed in "Standard Specifications for Road and Bridge Construction and Maintenance" *(current issue)* of the State Highway Commission of Indiana. References in the following paragraphs refer to the S.H.C. of I. Standard Specifications.

    c. The street surface shall be of portland cement, concrete or a flexible pavement of a width as shown on the following figure entitled, *Minimum Standards for Highways In All Subdivisions* as required by the Plan Commission of the Town of Burns Harbor, Indiana, and shall be constructed equal to those standards shown in the following table.

    d. Prior to placing the street and alley surfaces, adequate subsurface drainage for the street shall be provided by the subdivider. Sub-surface

stabilization using a product such as Tensan Geogrid SS-1 (or the equivalent) shall be installed. Sub-surface drainage pipe, when required, shall be coated corrugated pipe or a similar type not less than twelve (12) inches in diameter approved by the Commission. Upon the completion of the street and alley improvements, plans and profiles as built shall be filed with the Commission.

e. Inspection of the construction of all roads shall be made by at least one (1) of the following people: the Town Street Superintendent, Town Engineer or Town Building Commissioner. Three inspections shall be made: after the base is in place; after the two inch (2") binder course is in place; and, after the one inch (1") surface course is in place.

f. Acceptance of the roads and improvements by the Commission requires a letter of recommendation signed by the Town Street Superintendent to the Commission and subsequent notification of the Council by the Commission that all roads and improvements have been completed in accordance with the requirements of this Ordinance.

g. Base material shall conform to the specifications outlined in the *Indiana Highways Specifications Handbook* as published by the Indiana State Department of Transportation except for the following factors.

i) Los Angeles abrasion requirements shall not apply to blast-furnace slag.

ii) Aggregates failing to meet the sodium sulfate soundness requirements may, at the option of the engineer, be subjected to 50 cycles of freezing and thawing and may be accepted, provided, they do not have a loss greater than specified for sodium sulfate soundness.

iii) Absorption requirements shall not apply to blast-furnace slag.

iv) When crushed stone course aggregate consists of ledges whose absorptions differ by more than 2 percentage points, the absorption of the finished product will be determined on the basis of production samples from the stockpile obtained at the frequency set out in Indiana Test Method No. 2011.

v) Non-durable particles as determined by AASHTO T189 and other particles which are structurally weak, such as soft sandstone, shale, limonite concretions, coal weathered schist or cemented gravel. Determination of non-durable particles shall be made 30from the total weight of material retained on the 3/8 inch sieve. Scratch hardness test shall not apply to crushed stone course aggregate.

vi) The bulk specific gravity of chert shall be based on the saturated surface dry condition. The amount of chert (less than 11.45 bulk specific gravity) shall be determined on the total weight of material retained on the 3/8 inch sieve for sizes 1 through 8 inclusive, 53, 58B, 73 and 73B and on the total weight of material retained on the No. 4 sieve for sizes 9 and 110.

vii) The crushed aggregate requirements, unless otherwise specified, will apply only to gravel coarse aggregate used in bituminous mixtures or compacted aggregate base, shoulders or surface. The crushed aggregate requirements will not apply to size 12 aggregate. Blending of crushed stone with gravel in order to comply with the mechanically crushed requirements will be permitted when approved. Determination of crushed particles shall be made on material retained on the No. 4 sieve.

viii) Air-cooled blast-furnace slag course aggregate shall be free of objectionable amounts of cake and/or iron.

ix) Coarse aggregate may be accepted or rejected based on previous service records.

3. **Sewers**: The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with an existing approved sanitary sewer outlet, except that when such approved outlet is not available, one of the following methods of sewage disposal shall be used:

   a. A complete sanitary sewer system to convey the sewage to a treatment plant, to be provided by the subdivider in accordance with the minimum requirements of the Indiana State Board of Health and/or the Indiana Stream Pollution Control Commission.

   b. A private sewage disposal system on individual lots consisting of a septic tank and tile absorption field or other approved sewage disposal system, when laid out in accordance with the minimum standards of the Indiana State Board of Health regarding septic tank sewage disposal systems. Provided, however, that a private sewage disposal system on individual lots consisting of a septic tank and tile absorption field shall not be permitted if the water table is less than thirty (30) inches below the ground surface.

   c. The plans for the installation of a sanitary sewer system shall be provided by the subdivider and approved by the Indiana Department of Environmental Management and the Porter County Board of Health. Upon completion of the sanitary sewer installation, the plans for such system as built shall be filed with the Commission.

   d. In this Section 14-4-1.G[3], SEWERS, and the next Section 14-4-1.G[4],

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 such facilities referred to in these sections shall be installed by the developer of the lots in accordance with regulations.

4. **Water**: The subdivider shall provide the subdivision with a complete water main supply system which shall be connected to an existing approved municipal or community water supply except that when such municipal or community water supply is not available, the subdivider shall provide one of the following:

    a. A complete community water supply system to be provided in accordance with the minimum requirements of the Indiana State Board of Health.

    b. An individual water supply on each lot in the subdivision in accordance with minimum requirements of the Indiana State Board of Health.

    c. The plans for the installation of a water main supply system shall be provided by the subdivider and approved by the Indiana State Board of Health. Upon completion of the water supply installation, the plans for such system as built shall be filed with the Commission.

4.5 **Hydrants:** Any fire hydrant whether public or private, installed or replaced within the Town of Burns Harbor shall comply with the following Fire Department specifications:
Hose Outlet Nozzles: 2" x 2-1/2" NH threaded nozzles Pumper Outlet
Connection: 1" x 5" STORZ pumper port
(manufacturer installed)
Operating Nut: Pentagon (5 sided) 1-1/2"
Direction to Open: Open to the left/counter-clockwise

5. **Storm Drainage**: The subdivider shall provide the subdivision with an adequate storm water sewer system whenever curb and gutter is installed and whenever the evidence available to the Commission indicates that the natural surface drainage is inadequate.

6. **Curb, Gutter**: All subdividers shall provide curb and gutter along all roads within a subdivision. This does not apply to town roads previously in existence prior to the development of a subdivision.

    a. The curb and gutter shall be of the construction type shown on the previous figure.

    b. The base for the curb and gutter shall be well-compacted on the existing base or grade.

    c. The minimum specifications shall be as shown for the type of cross-section on the previous figure.

    d. All concrete used in the curb and gutter shall meet the State Highway Specifications for Class D concrete.

e. Integral or monolithic curb of the same dimensions as shown on the previous figure may be built of concrete pavements, provided the pavement widths are maintained as required in this Ordinance.

7. **Sidewalks**

a. Wherever a proposed subdivision lies adjacent to or between other subdivisions which have been provided with sidewalks, or whenever the proposed subdivision will average more than three and one-half (3°) lots per gross acre included in the subdivision, the Commission shall require sidewalks to be installed on each side of the street.

b. When sidewalks are required, they shall be constructed of Portland Cement Concrete and be at least four (4) feet wide.

c. It shall be the responsibility of the property owner to maintain all sidewalks in good and safe condition.

8. **Street Signs**: The subdivider shall provide the subdivision with standard town street signs at the intersection of all streets.

9. ***Engineering Design Standards: The engineering design standards following this Section shall be utilized for all designs and construction in the Town and shall take precedence over any standards referenced elsewhere in the Town Code which are in conflict with said standards, to-wit:***

a. Figure A - Arterial Street - Typical Section
b. Figure B - Local Street - Typical Section
c. Figure C - Asphalt Pavement Repair
d. Figure D - Mountable Curb and Gutter
e. Figure E - Barrier Curb and Gutter
f. Figure F - Sub-Surface Drain
g. Figure G - Storm Sewer Catch Basin
h. Figure H - Flared End Section
I. Figure I - Sanitary Sewer Manhole
j. Figure J - Drop Manhole
k. Figure K - Sewage Air Valve Structure
l. Figure L - Sanitary Sewer Clean-Out Detail
m. Figure M - Service Connection
n. Figure N - Typical Fill Cut-In Wye
o. Figure O - Typical Trench Detail
p. Figure P - Typical Casing Spacers
q. Figure Q - Silt Fence Barrier Installation
r. Figure R - Straw Bale Barrier Installation

10. **Submission of as-built drawings.** No improvements shall be accepted by the Town, and the Commission shall not recommend their acceptance, unless as-built drawings of the improvements showing the actual locations (as constructed) of all

streets, sanitary sewer, storm water and water main appurtenances, and all other improvements approved as part of the Secondary Plat, have been submitted to and approved by the Town Engineer.

11. All park land dedicated to the Town shall be graded and seeded prior to acceptance by the Town.

Section 5 - RULES OF PRACTICE AND PROCEDURE OF THE BURNS HARBOR PLAN COMMISSION

14-5-1. AUTHORITY AND DUTIES

A. **AUTHORITY**: The Burns Harbor Plan Commission (hereinafter called "Commission") exists as an advisory plan commission under the authority of Indiana Code 36-7-4-202 and Chapter 15 of the Town Code of Burns Harbor, Indiana, and any amendments of Indiana Code 36-7-4-401.

B. **DUTIES**: The duties of the Commission shall be those set forth in Indiana Code 36-7-4-400 et at., and such other responsibilities as may be required by state statute or town ordinance.

14-5-2. OFFICERS, MEMBERS AND EMPLOYEES

A. **MEMBERS**: The Commission shall consist of seven (7) voting members, appointed in accordance with Indiana Code 36-7-4-207.

B. **OFFICERS**: At its first regularly scheduled meeting in each calendar year, the Commission shall elect from its membership a president and a vice president. Each shall serve during the period of their membership on the Commission for the balance of the calendar year.

C. **DISABILITY OF PRESIDENT**: The vice president shall have authority to act as president of the Commission during the absence or disability of the president.

D. **SUCCESSION**: Upon resignation or replacement of the president or vice president as a member of the Commission, the Commission shall elect a successor at its next regularly scheduled meeting.

E. **SECRETARY**: The Commission shall appoint and fix the duties of a secretary, who is not required to be a member of the Commission. The secretary shall be charged with such duties as required under state statutes, town ordinances and these rules.

F. **VACANCY**: If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority shall be notified in writing by the secretary when a member has been absent for three (3) consecutive meetings of the Commission. Such absences may constitute cause for removal from the Commission by the appointing authority under Indiana Code 36-7-4-218(f).

G. **EMPLOYEES**: The Commission may appoint such employees as are necessary to the discharge of the Commission. Within its budget allotment, the Commission may fix the compensation of such employees in conformity with salaries and compensation fixed up to that time by the Town Council.

H. **LEGAL AND ENGINEERING FEES.** Within its budget allotment, the Commission may contract for special services, such as professional services including legal and engineering services. In order to defray costs incurred by the Town in the administration, planning, review and inspection of applications and petitions arising under this Chapter 14, as amended from time to time, all applicants and petitioners shall be required to pay the actual costs of professional services incurred by the Town. All applicants for subdivision approval shall present and deposit a certified check payable to the Town in an amount equal to two percent (2%) of the cost of all infrastructure improvements, as estimated by the Town engineer, at the time of the application for primary plat approval. The actual costs of professional services incurred in the administration, planning, review, and inspection of subdivisions under this Chapter, as charged at the professional service providers' usual and customary rates for non-municipal clients, shall be drawn from the amount deposited with the Town. In the event that the actual costs of professional services exceed the amount deposited with the Town, the Town shall charge additional fees for those services based upon the actual costs incurred and paid by the Town. In the event the actual costs of professional services do not exceed the amount deposited with the Town, the difference shall be refunded to the developer upon the completion and acceptance of all infrastructure and the release of any maintenance guarantee. Professional service providers shall notify the Town in writing of their usual and customary rates for non-municipal clients, which information shall be available from the Town Clerk-Treasurer. In matters before the Plan Commission other than subdivisions, applicants and petitioners will be charged the actual costs of professional services as invoiced to the Town as an additional fee. All fees charged under this Section shall be paid prior to the issuance of any improvement location permit, and any relief granted under this Chapter shall be conditioned upon the full payment of such fees.

14-5-3. MEETINGS

A. **MEETINGS:** The regular meetings of the Commission shall be at a date and time established by the Commission. The location of the meeting shall be the Burns Harbor Town Hall, located at 1240 N. Boo Road, Burns Harbor, Indiana. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct a meeting at that time or place, the president may set an alternate date, time or place for the regular meeting, or may cancel the meeting with the unanimous consent of the members of the Commission, provided that the notice requirements of Indiana Code 5-14-1.5 are complied with. The Commission shall not conduct business unless a majority of the members are present. All meetings of the Commission shall be open to the public, unless specifically authorized by statute. A majority of the members of the Commission, regardless of the number of members present, shall be required for a final decision to be rendered on any application or appeal. A majority of those members constituting a quorum of the members present shall be required on all other business.

B. **SPECIAL MEETINGS**: Special meetings may be called by the president or two (2) members of the Commission upon written request to the secretary. ***If a Petitioner desires a special meeting of the Plan Commission, the Petitioner shall pay a non-refundable special meeting fee of $650 to the Clerk-Treasurer prior to the calling of the meeting to cover the Commission's expenses for the special meeting.*** *(Ordinance 170, 3/13/2002)* The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required if:

1. the date, time and place of the special meeting are fixed in a regular meeting.
2. all members of the Commission are present at that regular meeting; and,
3. the secretary complies with the notice requirements of Indiana Code 5-14-1.5.

C. **ORDER OF BUSINESS:** The order of business at regular meetings shall be:

1. Call to Order
2. Roll Call
3. Determination of Quorum
4. Consideration of Minutes of Previous Meeting
5. Setting Future Public Hearings
6. Communications, Bills and Expenditures
7. Report of Officers and Committees (and staff, if applicable)
8. Public Hearing
9. Old Business
10. New Business
11. Adjournment

D. **PRESIDING OVER MEETINGS**: The president of the Commission shall preside over meetings, decide questions of order, subject to appeal by Commission members, and preserve decorum in the meeting room. The president shall pronounce the decisions of the Commission for purposes of recording in the minutes.

E. **ADDRESSING THE COMMISSION**: No one who is not a member of the Commission shall be permitted to address the Commission except by request and consent of the president.

14-5-4. OFFICIAL ACTION

A. **OFFICIAL ACTION**: A majority of the members of the Commission shall constitute

a quorum. Action of the Commission shall not be official unless it is authorized at a regular or properly-called special meeting by a majority of the entire membership of the Commission.

B. **DECISIONS**: Decisions of the Commission shall be by roll call vote of the members. All members present shall vote on every question unless they have disqualified themselves because of a conflict of interest as defined under Section C of this Article.

C. **INTEREST IN A DECISION:** No member of the Commission shall participate in a hearing, discussion or decision of the Commission upon any matter in which the member has a direct or indirect financial interest. This section shall not prevent a member from participating in any hearing, discussion or decision related to the preparation of a comprehensive plan. A member shall declare hir or her known conflict of interest, and the Commission shall enter into the record the fact that the member has such a disqualification.

D. **LACK OF A QUORUM**: In the event a majority vote of the Commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any Commission member, a petitioner or a remonstrator.

E. **RECONSIDERATION**: Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and if sustained by a majority of the votes, the reconsideration shall be ordered.

14-5-5. MINUTES AND RECORDS

A. **MINUTES**: The secretary of the Commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.

B. **PUBLIC RECORD**: The minutes of Commission meetings and all records shall be filed in the office of the Commission and are public records, as defined by Indiana Code 5-14-3.

C. **APPROVAL OF MINUTES**: The minutes shall be presented to the Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

14-5-6. PUBLIC HEARINGS

A. **PUBLIC HEARING**: The Commission shall hold such public hearings as are required by state statute and Town ordinances. The Commission may hold additional hearings at such times and places upon such notices as it considers necessary.

B. **APPLICATION BY A PETITIONER:** All public hearings on primary plats shall be set by the Commission only after a preliminary hearing conducted pursuant to this Chapter. A petitioner who seeks to vacate a plat, amend the zoning ordinance, subdivision ordinance, comprehensive plan, or any other matter under the jurisdiction of the Commission, shall file electronic copies (both CAD file and PDF) and three (3) printed copies, or as directed of the petition or application, with supporting materials, with the secretary of the Commission, not later than ten (10) days prior to the meeting at which the matter is to be considered. Submission of electronic materials are encouraged in addition to the materials required by this section. Petitions filed less than ten (10) days prior to the Commission's meeting shall be heard at the next succeeding, regular meeting. However, the Commission may waive this requirement by a unanimous vote of the members present, provided that a showing of an emergency has been demonstrated. The members may not waive the requirement of timely filing in the case of a public hearing. The purpose of this section is to enable both the Town staff and the Commission members to examine and study the materials and to conduct any investigation deemed advisable.

C. **FEES:** All such petitions not initiated by the Commission itself shall be accompanied by a filing fee in the form of a certified check or money order in the amount determined by the Commission from time to time and published in Section 5-15 of the Subdivision Control Ordinance. All professional services fees, including legal and engineering fees, incurred by the Commission shall be charged to the petitioner in accordance with Section 14-5-2(H).

D. **NOTIFICATION OF ADJACENT PROPERTY OWNERS**: The Petitioner shall include with every petition requiring a public hearing a scale map showing the location and ownership of property within three hundred (300) feet of the perimeter of the property which is the subject matter of the petition as those owners are shown of record in the official Porter County GIS record using the buffer tool.

E. **ADDITIONAL INFORMATION**: The Commission may require additional information, data, statistics or plats beyond those established by statute or ordinance which are deemed necessary for intelligent determination by the Commission.

F. **SETTING FOR A PUBLIC HEARING:** In all matters involving the platting of property or the establishment of a planned unit development, the Commission shall conduct a preliminary hearing on the application or petition. If the Commission finds that the application or petition is in order with sufficient information, it may set the matter for a public hearing, and the petitioner(s) or applicant(s) shall provide public notice in accordance with Indiana Code 5-3-1. The Commission may continue the public hearing if, in its sole discretion, it determines that additional information is required.

G. **LEGAL ADVERTISEMENT:** The petitioner or applicant shall prepare the legal advertisement of the public hearing in a form acceptable to the Commission and shall arrange and pay for the advertising, which shall be made in the Chesterton Tribune. In addition, the petitioner or applicant shall personally notify, by certified mail or hand delivery, all persons deemed interested parties by state statute or Town Code no later than ten (10) days before the date of the public hearing pursuant to Section 14-5-7.

At the public hearing, the petitioner or applicant shall provide proof of compliance with this section.

14-5-7. **NOTICE REQUIREMENTS**

A. **REQUIREMENTS FOR A PUBLIC NOTICE**: A notice of a public hearing required by state statute or town ordinance shall contain as a minimum the following information:

1. Docket number and the substance of the matter to be heard.
2. General location by address or other identifiable geographic characteristic of the property.
3. Name of the person, agency or entity initiating the matter to be heard.
4. Time and place of the hearing.
5. Statement that the petition may be examined at the Commission office.
6. Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing.
7. Any other information which may be required by law to by contained in such notice.

B. **PUBLICATION OF NOTICE**: For the purposes of an initial or replacement zoning ordinance or a subdivision control ordinance or any amendments thereto, all citizens of the Town are interested parties. The Commission is required to provide for the publication of notice pursuant to Indiana Code 36-7-4-604 at least ten (10) days prior to the public hearing and to post a copy of the notice at the Town Hall and at any other location as directed by the Plan Commission's rules.

C. **INTERESTED PARTIES:** For the purpose of notice to be given for any public hearing held by the Commission, "interested parties" are deemed to be those owners of real property within a distance of three hundred (300) feet of the property which is the subject of the application or petition as may be determined from records maintained by the County Assessor's office.

F. **PROOF OF NOTIFICATION:** Certified mail receipts or signatures of all interested parties provided to the Commission prior to the public hearing shall be considered sufficient evidence that personal notice has been given. Personal appearance at the public hearing shall constitute a waiver of objections to improper notice.

14-5-8. CONDUCT OF PUBLIC HEARINGS

A. **PRESENTATION OF FACTS**: At a public hearing before the Commission, the petitioner, property owner, or agent for the petitioner or property owner shall first present the facts and arguments in support of the case. Comments and questions from the Commission members may be interjected during the presentation for

clarification of the subject matter. Each of those persons who wishes to comment on the petition must address the president and be recognized before speaking. Each person must state his or her name and address. The president may limit a speaker's time to assure an opportunity for all speakers to comment.

B. **CLOSING THE HEARING**: The president shall close the public hearing after the Commission has adequately heard from all interested persons. The president shall then read all written comments on the petition received by the Commission.

C. **SUMMATION OF FACTS**: The petitioner may summarize arguments and the Commission may question further. The Commission shall then consider the petition.

D. **BURDEN OF PRESENTATION**: In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the problem. The Commission may continue the hearing when, in its judgment, the petitioner has not provided sufficient evidence on which to make a determination.

E. **REQUIREMENTS FOR A ZONING CHANGE**: All petitioners for any zoning change must bear the burden of proving one or more of the following points to the satisfaction of a majority of the Commission:

1. That there was an error in the zoning classification for the property in question when its present zoning classification was adopted.

2. That the character of the area under consideration has changed sufficiently from the time its present zoning classification was adopted to justify the change requested.

In determining (1) and (2) above, the Commission should consider the following:

1. That a change of zone will not be injurious or detrimental to surrounding property values.

2. That, if the change were granted, it would promote orderly community growth.

3. That the petition is not "spot-zoning" which will confer a special benefit on a relatively small tract without commensurate benefit to the community.

That the petitioner shall be required to submit electronic copies (both a CAD file and PDF) and three (3) printed copies or as directed of proposed findings of fact in support of the above no later than ***seventeen (17)*** days before the public hearing is set on the rezoning petition. The proposed findings of fact must be filed with the secretary of the Commission. Proposed findings of fact filed too late to comply with this section may subject the petitioner to having the public hearing continued.

F. **CONDUCT AT HEARING:** Every person appearing before the Commission shall abide by the order and directions of the president and shall comply with the following rules:

1. Persons addressing the Commission: Each person who addresses the Commission shall do so in an orderly manner and shall not make personal, slanderous or profane remarks to any member of the Commission, staff, or the general public. Any person who makes such remarks, or who utters loud threatening, personal, or abusive language, or engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting may be subject to being barred from further participation in the meeting. Individuals remonstrating are asked to keep their comments focused on the application and to avoid repeating comments made by other remonstrators.

2. Members of the Audience: No person in the audience shall engage in disorderly or boisterous conduct, including the uttering of loud, threatening or abusive language, or any other act which threatens to disrupt the orderly conduct of the meeting. During a public hearing, all members of the audience who wish to speak will be given an opportunity to speak.

3. Enforcement of Decorum: The presiding officer shall request that a person who fails to abide by these suggestions be orderly and silent. If a person persists in disturbing the meeting, the presiding officer shall order him or her to leave the meeting. If such person fails to remove him or herself, the presiding officer shall request that a Town of Burns Harbor police officer remove the individual from the meeting.

G. **CONTINUANCE**: The Commission, at its discretion, may continue or postpone the hearings of any case on an affirmative vote of a majority of the Commission.

14-5-9. FINAL DISPOSITION OF CASES

A. **JURISDICTION**: The Commission has exclusive jurisdiction over subdivision platting. The final disposition of any other case shall be in the form of a recommendation setting forth the findings and determinations of the Commission, together with any modification, specification or limitation which it makes.

B. **DISMISSAL OF CASES:** The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petitioner or applicant has failed, without just cause, to appear at two (2) consecutive meetings, the Commission may dismiss the application or petition for lack pf prosecution. A petitioner or applicant who petition or application is dismissed for failure to prosecute may no refile the matter with the Commission earlier than one (1) year after the date of dismissal.

C. **WITHDRAWAL OF PETITION**: Following the publication of notice for any public hearing, until the conclusion of the hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the Commission.

D. **RESUBMISSION OF PETITION**: A case which has been withdrawn by the petitioner shall not be again placed on the docket for consideration until three (3) months after the date of withdrawal.

E. **RESUBMISSION OF A REJECTED PETITION**: A case which has been decided adversely to the petitioner shall not again be placed on the docket for consideration until three (3) months after the date of decision previously rendered.

F. **ADVERSE RECOMMENDATION TO COUNCIL**: Because the Commission's recommendation is only advisory, the petitioner may request that the adverse recommendation be brought before the Town Council for their consideration. The Commission's recommendation, either favorable or adverse, may be overturned by the Town Council under Indiana Code 36-74-609.

14-5-10. RECONSIDERATION

A. **TOWN COUNCIL REJECTION/AMENDMENT**: If the Town Council rejects or amends a proposal to adopt a replacement zoning ordinance or to amend or partially repeal the text (not zone map) of the zoning ordinance, the proposal shall be returned to the Commission for its consideration with a written statement of reasons for rejection or amendment. The Commission has forty-five (45) days in which to consider the rejection or amendment and report to the Town Council as follows:

1. If the Commission approves the amendment or fails to act within for forty-five (45) day period, the ordinance stands as passed by the Town Council as of the date of the filing of the Commission's report of approval with the Town Council or the end of the forty-five (45) day period.

2. If the Commission disapproves the rejection or amendment, the action of the Town Council on the original rejection or amendment stands only if confirmed by another vote of the Town Council within forty-five (45) days after the Commission certifies its disapproval. If the Town Council fails to confirm its action under this clause, then the ordinance takes effect as it was originally certified by the Commission.

B. **FURTHER CONSIDERATION OF REJECTED PETITION**: In the event that a petition for rezoning filed by property owner(s) to amend the zoning map is rejected by the Town Council in one of the manners provided in Indiana Code 36-7-4-608 the Commission may not further consider said petition for a period of twelve (12) months after rejection.

14-5-12. COMMITTEES

A. **ESTABLISHMENT OF COMMITTEES**: The president, with the approval of the Commission, may establish such committees as deemed to be necessary and desirable. The purposes and terms of such committees shall be specified at the

time of their establishment.

B. **MEMBERSHIP**: Members of committees shall be appointed by the president.

14-5-13. AMENDMENTS

A. **AMENDMENTS**: Amendments to these rules of procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Commission. The suspension of any rule may be ordered at any meeting by a two-thirds (2/3rds) vote of the Commission.

14-5-14. REPEAL

A. **REPEAL**: All previous rules and regulations heretofore adopted by the Burns Harbor Plan Commission are hereby expressly repealed, as of the effective date of these rules.

14-5-15. SCHEDULE OF FEES:

Subdivision primary plat: $250 plus $50 per lot
Rezoning: $1,000
Secondary plat: $250
Infrastructure guarantee reduction: $250
Special Exception: $150
Planned Unit Development: $300 plus $50 per lot

FORMS: In proceedings before the Plan Commission, Petitioner shall utilize the following forms that are attached to this Chapter as Appendix A through Appendix I:

Appendix A: Application for Primary Approval of a Subdivision

Appendix B: Notice of Public Hearing for Primary Plat Approval under the Burns Harbor Subdivision Ordinance

Appendix C: Form of Notice to Property Owner Within Three Hundred Feet of a Public Hearing for Primary Plat Approval

Appendix D: Form of Findings and Decision of Application for Primary Plat Approval

Appendix E: Power of Attorney for Use by Person Other than Property Owner Proceeding Before the Commission

Appendix F: Infrastructure Installation Guaranty

Appendix G: Petition for a Planned Unit Development District Ordinance

Appendix H: Form of Ordinance of the Town of Burns Harbor Establishing a Planned Unit Development District

Appendix I: Petition for rezoning

APPENDIX - A

APPLICATION FOR PRIMARY APPROVAL OF A SUBDIVISION
TOWN OF BURNS HARBOR, INDIANA

Date Received: _____

Public Hearing Date: _____

Subdivision Fee: _____

Name of Applicant/Developer:_____

Address:_____

Phone:_____Fax:_____ Email:_____

Name of Subdivision:_____

General location (attach legal description):

_____

_____

_____

Acres/Parcel Size: _____

Number of Lots: _____

Zoning of Parcel: _____

Name of registered Engineer or Surveyor preparing Subdivision Plat:

_____

Address:_____

Phone:_____ Fax: _____ Email: _____

I (we) hereby apply to the BURNS HARBOR ADVISORY PLAN COMMISSION of BURNS HARBOR, INDIANA for primary approval of the above described subdivision plat in accordance with the Subdivision Control Ordinance. I (we) are the owner(s) or authorized agent(s) of the owner(s) of the real estate included in said subdivision. The proposed plat and filing fee accompany this application.

_____ _____

(Signature of Applicant) (Printed Name)

*If the owner is not the applicant, the owner must submit a notarized letter with the application authorizing the above named applicant's to act as agents for the purposes of this application.

STATE OF INDIANA, COUNTY OF PORTER SS:

Subscribed and sworn before me this _____ day of _____, 20_____.

_____

(Signature of Notary Public)

My commission expires: _____

APPENDIX - B

NOTICE OF PUBLIC HEARING
BEFORE THE BURNS HARBOR ADVISORY PLAN COMMISSION

Notice is hereby given that the Plan Commission will hold a public hearing at the Town Hall, 1240 North Boo Road, Burns Harbor, Indiana 46304 on the _____ day of _____, 20___, and will hear the Petition of _____ (insert name of petitioner(s) requesting (Insert the type of Petition being filed and the action requested to be taken by the Plan Commission) for the following described real estate in Burns Harbor, Indiana, to-wit:

(insert legal description)

which property is commonly known as ____

(insert address of location of property).

A copy of the Petition is on file at the Office of the Burns Harbor Clerk-Treasurer, 1240 North Boo Road, Burns Harbor, Indiana, for examination by the public before the public hearing. Written objections to the Petition that are filed with the Plan Commission's Secretary prior to the hearing will be considered. Oral comments concerning the Petition will be heard at the public hearing. The hearing may be continued from time to time as may be found necessary. The hearing will begin at 7:00 p.m. or as soon thereafter as the agenda for the Plan Commission will permit.

BURNS HARBOR ADVISORY COMMISSION

PUBLICATION DATE: At least 10 days prior to meeting date. Publication is required one time only.

Proof of publication can be sent to the Town of Burns Harbor, 1240 North Boo Road, Burns Harbor, Indiana 46304 and _____
.
(Petitioner's home address)

Note to Petitioner: The Notice must be placed in a newspaper of general circulation within the Town at least ten (10) days prior to the meeting date. Petitioner is responsible for the cost of publication and is expected to bring a receipt for payment to the Public Hearing.

APPENDIX - C

FORM OF NOTICE TO PROPERTY OWNERS WITHIN 300 FEET

DATE_____

Mr. and Mrs. _____
(Name)
_____
(Street)
_____
(Town, State, Zip)

Dear Mr. and Mrs. _____:

We are the owners of the following described real estate in the Town of Burns Harbor, Indiana, to-wit:

(insert legal description)

Commonly known as _____ (insert address or general location of property.)

We have submitted a Petition to the Plan Commission for:
_____
_____
(insert the type of petition and the action requested to be taken by the Plan Commission) for the above-described property.

The Plan Commission has set our Petition for public hearing on _____, 20___ at _____o'clock p.m. at the Burns Harbor Town Hall, 1240 North Boo Road, Burns Harbor, Indiana.

You are invited to be present for said hearing and to direct your comments to the Plan Commission concerning this application or to submit your comments to the Plan Commission in writing prior to the hearing.

Very truly yours,

_____
(Petitioner's signature)

APPENDIX - D

FINDINGS AND ACTIONS TAKEN ON PETITIONER'S REQUEST FOR PRIMARY PLAT APPROVAL FOR A SUBDIVISION BEFORE THE TOWN OF BURNS HARBOR ADVISORY PLAN COMMISSION

Petition No.:_____

The application of (Name:)_____
Legal description of subdivision:_____

_____

_____

_____

Address:_____

Date of public hearing held:_____

Date public hearing closed:_____

The Plan Commission now FINDS:

1. That the application for primary plat approval DOES _____ DOES NOT____ conform to all requirements of the Town of Burns Harbor Comprehensive Plan, Subdivision Control Ordinance, and the Rules of Practice and Procedure of the Plan Commission.

In the event "DOES NOT" was checked above, the reasons shall be set forth in the following space:

_____
_____
_____
_____
_____

The Plan Commission does now GRANT _____ REJECT_____the primary plat approval of the petitioner(s).

And further decides the following condition be imposed:

Receipt of a final plat and guarantees as required by The Town of Burns Harbor Subdivision Control Ordinance; and

_____
_____
_____
_____

Dated:_____

BURNS HARBOR ADVISORY PLAN COMMISSION

_____
_____
_____
_____
_____
_____
_____

ATTEST:

_____
Secretary:

APPENDIX - E

** This form is to be used in the event a person who will be appearing in front of the BZA or Plan Commission does not have legal title, or is not an equitable owner of the property in question. The owner of the real estate must sign the Power of Attorney authorizing the person appearing before the Board to act with proper authority on the owner's behalf in presenting the petition.

STATE OF INDIANA
SS:
COUNTY OF _____

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, _____(insert name of property owner), a resident of _____ County, State of _____, have made, constituted and appointed, and by these presents do make, constitute and appoint _____ (insert name of appointee) of _____ County, State of _____, my true and lawful attorney, for me and in my name, to do the following:

1. Act for me and in my behalf in connection with a petition before the _____ (Town of Burns Harbor Board of Zoning Appeals or Town of Burns Harbor Advisory Plan Commission) concerning property located at _____ (insert address), Burns Harbor, Porter County, Indiana, legally described as follows:

(Insert legal description)

2. Accept conditions on any variance(s) sought by the petition and make written commitments concerning the use of the real estate in the event that a variance (or variances) is granted.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 20__.

_____
(Signature of property owner)

STATE OF INDIANA
SS:
COUNTY OF PORTER

Before me, the undersigned, a Notary Public in the aforesaid county and state this ___ day of _____, 20 _____, personally appeared_____ (name), and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal.

_____
, Notary Public

_____
(Print name)

My commission expires:_____
Resident of _____ County

APPENDIX - F

IRREVOCABLE LETTER OF CREDIT INFRASTRUCTURE GUARANTEE

Date:_____

Town of Burns Harbor Plan Commission
1240 N. Boo Road
Burns Harbor, IN 46304

Re: IRREVOCABLE LETTER OF CREDIT FOR _____
Members of the Town of Burns Harbor Advisory Plan Commission:
_____ hereby establishes and issues in favor of the Town of Burns Harbor, Indiana ("Town") its Irrevocable Letter of Credit ("Credit") pursuant to the Town of Burns Harbor Subdivision Control Ordinance in the amount of _____ subject to the following conditions:

1. That this Credit binds the undersigned, their heirs, executors, administrators, successors and assigns firmly for a period of thirty (30) months from and after _____, which date is necessarily the same date of secondary plat approval by the Plan Commission. Accordingly, the expiration date for this letter of Credit is_____.

2. That all improvements required by the town shall be completed by _____, hereinafter referred to as "Owner" in accordance with the requirements of the Town Code and the plans that have been approved by the Plan Commission for this _____ (insert Subdivision or PUD) no later than _____, which date is necessarily two (2) years from the date of secondary plat approval.

3. That the failure of the owner to complete the public improvements secured by this Credit, on or before two (2) years from the secondary plat approval shall be considered a default by the Owner and the issuing institution of this Credit.

4. That the issuing institution of this Credit will pay all attorney's fees and out-of-pocket costs, including costs of paid staff of the Town, incurred in enforcing collection of this Credit in the event the issuing institution fails to honor the Town's demand for payment under the terms of this Credit.

5. That this Credit may be reduced or partially discharged only by the Plan Commission upon receipt of a sworn statement by the Owner's engineer of the costs of work performed and estimating the amount of improvement remaining to be performed. Upon receipt of the sworn statement of the Owner's engineer, the Town engineer shall review said sworn statement and determine after inspection if the improvements conform with the approved plat and the Town standards concerning their construction. The Town engineer shall further determine whether the Owner's engineer's sworn statement is accurate and then report his findings to the

Plan Commission as to the costs of the conforming work performed. This Credit may then be reduced and partially discharged by the Plan Commission in the amount of the costs of the conforming work performed as determined by the Town engineer. However, in no event shall this Credit be reduced to an amount less than 110 percent of the estimated costs of the balance of the improvements to be constructed.

6. That in the event the Town of Burns Harbor by its Plan Commission, wishes to draw upon this Credit, it shall give a signed statement by its designated representative that the aforementioned improvements have not been completed within the time limit set in paragraph 2 of this Credit. _____ shall then issue a check payable to the Town within 10 days of receipt of the signed statement. No additional action is required by the Town other than giving its signed statement and indicating the amount of money required to be paid by the issuing institution pursuant to this Credit.

7. That to the extent they do not conflict in any way whatsoever with this Credit, this Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 revision), International Chamber of Commerce publication #500, enforced as of January 1, 1994.

Issued this _____ day of _____, _____, by
_____(issuing institution).

Issuing Institution

By:

_____

Its:_____
(Print Title)

_____
(Printed Signature)

Accepted this _____ day of _____, _____, by the Plan Commission

TOWN OF BURNS HARBOR
ADVISORY PLAN COMMISSION

By:

_____

Its:_____
(Print Title)

_____
(Printed Signature)

APPENDIX - G

BEFORE THE TOWN OF BURNS HARBOR TOWN COUNCIL
AND BURNS HARBOR ADVISORY COMMISSION

IN RE: THE PETITION OF

_____

TO THE BURNS HARBOR TOWN COUNCIL AND ADVISORY PLAN COMMISSION FOR A PLANNED UNITED DEVELOPMENT DISTRICT ORDINANCE NO._____

PETITION FOR A PLANNED UNIT DEVELOPMENT DISTRICT ORDINANCE

_____ (petitioner) applies for and request that the Burns Harbor Council, after receiving the advice of its Plan Commission, approve a PUD District Ordinance for real estate located in the Town of Burns Harbor, Indiana. In support of this Petition, the undersigned would state the following:

1. That the undersigned has received and reviewed a copy of:
    a. Town of Burns Harbor Subdivision Control Ordinance, which provides for, among other things, Planned Unit Development District Ordinances.
    b. The Burns Harbor Town standards (last edition); and
    c. The Rules of Practice and Procedure of the Burns Harbor Advisory Plan Commission.

   All aforementioned documents are on file in the office of the Burns Harbor Clerk Treasurer located at 1240 North Boo Road, Burns Harbor, Indiana. Additionally, a copy of the checklist for these proceedings has also been reviewed by the undersigned.

2. That the undersigned has paid to the Burns Harbor clerk-Treasurer a filing fee in the amount of $_____ Which has been computed as follows:

   $_____ $300 application fee; plus
   $_____ $100 per lot
   $_____ Total ($500 minimum)

   Additionally, the undersigned has read Section 14-3.5-15 of Burns Harbor Town Code and agrees to pay all consultant fees, engineering fees, and attorneys fees incurred by the Town during its consideration of this Planned Unit Development.

3. That the undersigned is the owner of the legal or equitable title of the following described real estate in Burns Harbor, Porter County, Indiana to-wit:

   See attached Exhibit "A"

generally located at _____
(address or general location of property)

The document showing the undersigned to be the owner of this property is a _____ _____ And is attached to this Petition as Exhibit "B."

4. That the undersigned represents that the concept plan process as required pursuant to the Subdivision Control Ordinance of the Burns Harbor Town Code has been concluded by the Plan Commission.

5. That the undersigned agrees to comply with all notice requirements set forth the Plan Commission's Rules and Regulations.

6. Attached to this Petition is electronic copies (both CAD file and PDF file) and three (3) printed copies or as directed, of the written text portion of the proposed PUD Ordinance and electronic copies (both a CAD file and PDF file) and three (3) printed copies or as directed, of the drawing portion of the proposed PUD Ordinance with all information that is required pursuant to the Subdivision Control Ordinance of the Burns Harbor Town Code.

_____
Petitioner
Petitioner's Address:

_____

_____

Telephone No.:_____

Dated: _____

APPENDIX - H

(PROPOSED ORDINANCE)

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BURNS HARBOR,
PORTER COUNTY, INDIANA ESTABLISHING A
PLANNED UNIT DEVELOPMENT DISTRICT

WHEREAS, a public hearing has been held as required by law and the Plan Commission has recommended the adoption of a PUD District Ordinance for certain land located within the corporate boundaries of the town of Burns Harbor and

WHEREAS, the Burns Harbor Town Council concurs in the recommendation of the Plan Commission.

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

SECTION 1. That a PUD District is approved for the following described real estate, to-wit:
(See attached Exhibit "A")
which real estate is generally located at _____

SECTION 2. That the name and address of the petitioner for this PUD District Ordinance is: _____

SECTION 3. That the attached as Exhibit "B" is the recorded document showing the petitioner's ownership interest in this parcel, which document is in the form of a _____

SECTION 4. That Chapter 14 and 15 of the Town of Burns Harbor Town Code, along with the Burns Harbor Town Standards, latest edition, shall apply to the development of this property, except for the following variances to same:

a. Development standard variances:
   i. _____
   ii. _____
   iii. _____
   iv. _____
   v. _____

b. Use variances:
   i. _____
   ii. _____
   iii. _____
   iv. _____
   v. _____

c. Variances from the Town of Burns harbor Subdivision Control Ordinance:
   i. _____
   ii. _____

iii. _____

iv. _____

v. _____

d. Variances to Burns Harbor Town Standards:

i. _____

ii. _____

iii. _____

iv. _____

v. _____

SECTION 5. That all uses and the area in acres of each use in this PUD District are as follows:

a. _____
_____

b. _____
_____

c. _____
_____

d. _____
_____

e. _____
_____

f. _____
_____

SECTION 6. That the total number of residential units in this District is _____ and the percent of each type of each residential use is:

a. _____% for _____ use;
b. _____% for _____ use.; and
c. _____% for _____ use.

SECTION 7. That the delineation of each business and/or industrial use and total are in acres of each business and/or industrial use is as follows:

a. _____
_____

b. _____
_____

c. _____
_____

d. _____
_____

e. _____
_____

f. _____
_____

g. _____
_____

h. _____

_____

SECTION 8. That the following phasing schedule of development shall apply in this District:

a. _____
_____
b. _____
_____
c. _____
_____
d. _____
_____
e. _____
_____

SECTION 9. That the detailed description of location and proposed use for all proposed open and/or recreation space is as follows:

a. _____
_____
b. _____
_____
c. _____
_____
d. _____
_____
e. _____
_____
f. _____
_____

SECTION 10. That the general description of community services available to this PUD District's residents, including schools, fire protection, parks, and all public/private utilities, is a follows:

a. _____
_____
b. _____
_____
c. _____
_____
d. _____
_____
e. _____
_____
f. _____
_____

SECTION 11. That a general statement on proposed ownership and maintenance of common open space is as follows:

_____
_____

SECTION 12. That the proposed construction schedule for this PUD District shall be as follows:

_____
_____

SECTION 13. That the objectives of PUD Districts as set forth in Section 14-3.5-2 of the Burns Harbor Town Code including a specific written submission addressing plans in Section 14-3.5-2 of the Burns Harbor Town Code having to do with the preservation of natural topographical and geological features and the

land, is as follows:

_____
_____

SECTION 14. That the reasonable conditions or written commitments concerning the use and development of the land contained in this PUD District are as follows:

Reasonable Conditions:

a. _____
_____
b. _____
_____
c. _____
_____
d. _____
_____
e. _____
_____

Written Commitments:

a. _____
_____
b. _____
_____
c. _____
_____
d. _____
_____
e. _____
_____

SECTION 15. That the drawing portion of the PUD District Ordinance showing the plan of development for this parcel, as required by Section 14-3.5-11(B) of Burns Harbor Town Code, is attached hereto, incorporated herein, and marked as Exhibit "C".

SECTION 16. That any violation of this PUD District Ordinance shall constitute a violation of the Town Code punishable by a fine from $1.00 to $2,500 per violation for each day said violation exists in accordance with the general penalty provisions found in Section 1-9 of the Burns Harbor Town Code.

SECTION 17. That this Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

ALL OF WHICH IS PASSED AND ADOPTED by the Burns Harbor Town Council this _____ day of _____, 20_____.

BURNS HARBOR TOWN COUNCIL

By: _____

_____

_____

_____

_____

ATTEST:

_____
Clerk-Treasurer
Town of Burns Harbor

APPENDIX - I

BEFORE THE BURNS HARBOR ADVISORY PLAN COMMISSION

IN RE: PETITION TO THE BURNS HARBOR ADVISORY PLAN COMMISSION FOR A CHANGE TO THE BURNS HARBOR ZONING MAP NO. _____

PETITION

We, the undersigned, petition the Plan Commission for a change in the Burns Harbor Zoning Map for the parcel or property described herein and show to the Plan Commission the following:

1. That we have received a copy of the Rules of Practice and Procedure of the Plan Commission on file in the Offices of the Clerk-Treasurer. We have also received a copy of the checklist also on file as aforesaid.

2. That we have paid to the Clerk-Treasurer the appropriate filing fee for this Petition.

3. That we own at least 50 percent of the following described real estate that is the subject matter of this Petition, which is located in Burns Harbor, Indiana to-wit

   (insert legal description)

   which property is commonly known as:_____

   (Address or general location of property).

4. That we attach a copy of the deed or other instrument vesting at least 50 percent of the legal ownership of the property described in paragraph3 above to the undersigned.

5. That the Zoning Map currently shows this property as being zoned _____.

6. That your petitioner(s) believe that the aforesaid property should be rezoned to _____. (State zoning classification desired)

7. That the requested zoning pays reasonable regard to:

   a. The Comprehensive Plan for the reasons set forth as follows:
      _____
      _____

   b. Current conditions and the character of current structures and uses in the land and surrounding area for the reasons set forth as follows:
      _____
      _____

   c. The most desirable use for the land for which we request a change in the Zoning Map adapted for the following reasons:
      _____
      _____

d. The conservation of property values throughout the Town for the following reasons:
_____
_____

e. Responsible development and growth for the following reasons:
_____
_____

8. That your petitioner(s) will take the necessary steps 10 days prior to any public hearing set on this Petition to notify all owners of property within 300 feet of the land for which the change in the zoning Map is sought of the date, time, and place of any public hearing to be held on this Petition.

WHEREFORE, your petitioner(s) request that this Plan Commission do the following:

1. Review this Petition to determine whether it is in proper order and form and, upon determining so, set this matter for public hearing.
2. The Secretary of this Plan Commission publish legal notice placed in a newspaper of general circulation within the Town at least 10 days prior to said public hearing informing the public of the date, time, and place of the public hearing.
3. That the Plan Commission recommend to the Town Council that an ordinance be passed changing the Zoning Map for the aforesaid property from its present zoning classification of _____ To the requested zoning classification of _____.

_____
Petitioner

_____
Petitioner
Address of Petitioner(s):

_____
_____
Telephone No. _____

Date: _____

PLAN COMMISSION'S ACTION

Public hearing set for _____
Results of public hearing: _____
_____
Ordinance No. _____ (passed) (rejected) by the Town council on _____