

TOWN OF MENTONE INDIANA

CODE OF ORDINANCES

2019 S-18 Supplement contains

Local legislation current through Ord. 17-452, passed 10-2-17

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MENTONE, INDIANA

TOWN OFFICIALS

Council President	Jill Gross
Clerk-Treasurer	Janick Norris
Attorney	Andrew Grossnickel
Police Chief	James Eads
Fire Chief	Mike Yazel
Utility Superintendent	Joshua Shepherd

COUNCIL MEMBERS

Jill Gross, President
Timothy Croy
Shelly Krueger

Town of Mentone
201 W Main St.
P.O. Box 562
Mentone, IN 46539

Phone:	(574) 353-7198
Fax:	(574) 353-1417
Email:	mentoneclerk@medt.com

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ADOPTING ORDINANCE

ORDINANCE NO. 286

An ordinance adopting Code of Ordinances. The Town Council of Mentone, Kosciusko County, Indiana, has adopted the Code of Ordinances prepared by American Legal Publishing Company for the Town of Mentone.

Adopted this 8th day of October, 1991.

Miriam Boardman, Council President /s/

Tames Miller, Council Member /s/

Wayne Tombaugh, Council Member /s/

ATTEST:

Barbara Ross, Clerk-Treasurer /s/

ORDINANCE NO. 298

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF MENTONE.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 1st Supplement to the Code of Ordinances of the Town of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updates sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Mentone, State of Indiana:

SECTION 1. That the 1st Supplement to the Code of Ordinances of the Town of Mentone as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 7th day of June, 1993.

Lynn E. Phillips /s/
President

Michael Casper /s/
Councilmember

Terry L. Reed /s/
Councilmember

ATTEST: Barbara Kess /s/
Clerk Treasurer

ORDINANCE NO. 308

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF MENTONE, INDIANA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 2nd Supplement to the Code of Ordinances of the Town Of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town Of Mentone, State of Indiana:

SECTION 1. That the 2nd Supplement to the Code of Ordinances of the Town Of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 1st day of August, 1994.

Terry Reed /s/
President

Michael Casper /s/
Council Member

Lynn Phillips /s/
Council Member

ATTEST: Barbara Ross /s/
Clerk Treasurer



ORDINANCE NO. 313

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES
OF THE TOWN OF MENTONE, INDIANA

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 3rd Supplement to the Code of Ordinances of the Town of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Mentone, State of Indiana:

SECTION 1. That the 3rd Supplement to the Code of Ordinances of the Town of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 7th day of August, 1995.

Mike Casper /s/
Council President

Lynn Phillips /s/
Council Member

Terry Reed /s/
Council Member

Attest: Barbara Ross /s/
Clerk Treasurer

ORDINANCE NO. 319

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF MENTONE, INDIANA

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 4th Supplement to the Code of Ordinances of the Town Of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town Of Mentone, State of Indiana:

SECTION 1. That the 3rd Supplement to the Code of Ordinances of the Town Of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 1st day of July, 1996.

Mike Casper /s/
President

Lynn Phillips /s/
Council Member

Terry Reed /s/
Council Member

ATTEST: Cheryl A. Phillips /s/
Clerk Treasurer

ORDINANCE NO. 328

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES
OF THE TOWN OF MENTONE, INDIANA

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 5th Supplement to the Code of Ordinances of the Town Of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town Of Mentone, State of Indiana:

SECTION 1. That the 5th Supplement to the Code of Ordinances of the Town Of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 5th day of May, 1997.

Terry Reed /s/
Council President

Forrest Kantner /s/
Council Member

ATTEST: Cheryl A Phillips /s/
Clerk Treasurer

ORDINANCE NO. 341

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF MENTONE, INDIANA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 6th Supplement to the Code of Ordinances of the Town Of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town Of Mentone, State of Indiana:

SECTION 1. That the 6th Supplement to the Code of Ordinances of the Town Of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 1st day of ~~June~~, 1998.

Forrest Kantner /s/
Acting Council President

Lynn Phillips /s/
Council Member

ATTEST: Cheryl A. Phillips /s/
Clerk Treasurer

ORDINANCE NO. 99-348

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF MENTONE, INDIANA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio has completed the 7th Supplement to the Code of Ordinances of the Town Of Mentone, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Indiana Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Indiana;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Mentone, State of Indiana:

SECTION 1. That the 7th Supplement to the Code of Ordinances of the Town of Mentone, Indiana as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 12th day of July, 1999.

Forrest Kantner /s/
Council President

Lynn Phillips /s/
Council Member

Ed Rock /s/
Council Member

ATTEST: Cheryl A. Phillips /s/
Clerk-Treasurer

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§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the Town of Mentone shall be designated as the Code of Mentone and may be so cited.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Kosciusko County, Indiana.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Indiana.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TOWN, MUNICIPALITY, or MUNICIPAL CORPORATION. The Town of Mentone, Indiana.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed; equivalent to the words *YEAR OF OUR LORD*.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) *AND* or *OR*. Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this municipality for the transaction of all municipal business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in anywise be effected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall by itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (IC 25-1-5-9(7)) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 31.10 PRESIDENT OF THE TOWN COUNCIL.

The executive authority of the city shall be vested in and exercised by the President of the Town Council.

(Ord. 10, passed 1-1-80)

Statutory Reference:

Designation of town executive, see IC 36-5-2-2

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$ 2500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
(IC 36-1-3-8(10))

TITLE m: ADMINISTRATION

Chapter

- 30. TOWN COUNCIL
- 31. TOWN OFFICIALS
- 32. ECONOMIC DEVELOPMENT COMMISSION
- 33. FUNDS
- 34. TOWN POLICIES
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- 30.02 Terms of office
- 30.03 Residence requirements
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- 30.05 Quorum
- 30.06 Voting requirements for passage of ordinances and the like
- 30.07 Publication and notice of ordinances prescribing penalties
- 30.08 Recording requirements for ordinances
- 30.09 Election

§ 30.01 TOWN COUNCIL AND TOWN EXECUTIVE.

The Town Council is hereby designated as the town legislative body. The President of the Town Council selected under § 31.01 is hereby designated as the Town Executive.
(IC 36-5-2-2)

§ 30.02 TERMS OF OFFICE.

The term of office of a member of the Town Council is four years, beginning at noon on January 1 after his election and continuing until his successor is elected and qualified.
(IC 36-5-2-3)

§ 30.03 RESIDENCE REQUIREMENTS.

A member of the Town Council must meet the residence requirements of IC 36-5-2-6.

§ 30.04 POWERS AND DUTIES.

The Town Council may adopt ordinances and resolutions for the performance of functions of the town; purchase, hold, and convey any interest in property, for the use of the town; and adopt and use a common seal.
(IC 36-5-2-9)

§ 30.05 QUORUM.

A majority of all the elected members of the Town Council constitutes a quorum.
(IC 36-5-2-9.2)

§ 30.06 VOTING REQUIREMENTS FOR PASSAGE OF ORDINANCES AND THE LIKE.

(A) A requirement that an ordinance, resolution, or other action of the Town Council be passed by a majority vote means at least a majority of all elected members. A requirement that an ordinance, resolution or other action of the Town Council be passed by 2/3 vote means at least 2/3 vote of all elected members. (IC 36-5-2-9.4)

(B) A 2/3 vote of all elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of the Town Council on the same day or at the same meeting at which it is introduced. This division does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7. (IC 36-5-2-9.8)

§ 30.07 PUBLICATION AND NOTICE OF ORDINANCES PRESCRIBING PENALTIES.

(A) An ordinance, order, or resolution passed by the Town Council is considered adopted when it is signed by the Town President. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(B) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

(1) It is published under division (C); or

(2) It declares an emergency requiring its immediate effectiveness and is posted in one public place in each district in the town; or a number of public places in the town equal to the number of Town Council members, if the town has abolished legislative body districts under IC 36-5-2-4.1.

(C) Except as provided in IC 36-5-2-10(e), if a town publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this section, it takes effect two weeks after the publication of the book or pamphlet. Publication under this section, if authorized by the legislative body, constitutes presumptive evidence:

(1) Of the ordinances in the book or pamphlet;

(2) Of the date of adoption of the ordinances; and

(3) That the ordinances have been properly signed, attested, recorded, and approved.

(D) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted **under** IC 36-7.
(IC 36-5-2-10)

§ 30.08 RECORDING REQUIREMENTS FOR ORDINANCES.

(A) Within a reasonable time after an ordinance of the Town Council is adopted, the Clerk-Treasurer shall record it in a book for that purpose. The record must include:

- (1) The signature of the Town President;
- (2) The attestation of the Clerk-Treasurer; and
- (3) The date of each recorded item.

(B) The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

(IC 36-5-2-10.2)

§ 30.09 ELECTION.

The Town Council does hereby abolish the legislative body districts (or wards) and ordains that all members of the legislative body (Town Council) shall hereafter be elected at large, the same as the other officer(s) of the town.

(Ord. 294, passed 3-1-93)

CHAPTER 31: TOWN OFFICIALS

Section

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- 31.03 Residence requirement
- 31.04 Election
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- 31.06 Powers and duties
- 31.07 Deputies and employees
- 31.08 Town Marshal and Deputy Marshals

§ 31.01 PRESIDENT; TERM OF OFFICE.

The Town Council shall select one of its members to be its President for a definite term, which may not exceed the member's term of office as a member of the Town Council.
(IC 36-5-2-7)

§ 31.02 CLERK-TREASURER.

(A) The town Clerk-Treasurer is the clerk of the Town Council. Whenever the Town Council has an even number of members for any reason, the Clerk-Treasurer shall be an ex officio member for the purpose of casting the deciding vote to break a tie. (IC 36-5-2-8)

(B) The Clerk-Treasurer elected shall act as both the Town Clerk and the Town Fiscal Officer.
(IC 36-5-6-2)

§ 31.03 RESIDENCE REQUIREMENT.

(A) The Clerk-Treasurer must reside within the town as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The Clerk-Treasurer forfeits office if the Clerk-Treasurer ceases to be a resident of the town.

(B) The term of office of the Clerk-Treasurer is four years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.
(IC 36-5-6-3)

§ 31.04 ELECTION.

The Clerk-Treasurer shall be elected as set forth in state law by the voters of the whole town.
(IC 36-5-6-4)

§ 31.05 ADMINISTRATION OF OATHS.

The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.
(IC 36-5-6-5)

§ 31.06 POWERS AND DUTIES.

The Clerk-Treasurer shall do the following:

(A) Receive and care for all town money and pay the money out only on order of the Town Council.

(B) Keep accounts showing when and from what sources the Clerk-Treasurer has received town money and when and to whom the Clerk-Treasurer has paid out town money.

(C) Prescribe payroll and account forms for all town offices.

(D) Prescribe the manner in which creditors, officers, and employees shall be paid.

(E) Manage the finances and accounts of the town and make investments of town money.

(F) Prepare for the Town Council the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.

(G) Maintain custody of the town seal and the records of the Town Council.

(H) Issue all licenses authorized by statute and collect the fees fixed by ordinance.

(I) Serve as clerk of the Town Council by attending its meetings and recording its proceedings.

(J) Administer oaths, take depositions and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.

(K) Serve as clerk of the Town Court under IC 33-35-3-2, if the judge of the Court does not serve as clerk of the Court or appoint a clerk of the Court under IC 33-35-3-1.

(L) Perform all other duties prescribed by statute.
(IC 36-5-6-6)

§ 31.07 DEPUTIES AND EMPLOYEES.

(A) The Clerk-Treasurer shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the Town Council. The Clerk-Treasurer's deputies and employees serve at his pleasure.

(B) If a town owns a utility and the Clerk-Treasurer is directly responsible for the billing and collection of that utility's rates and charges, the Clerk-Treasurer shall appoint those employees who are also responsible for that billing and collection. These employees serve at the Clerk-Treasurer's pleasure.
(IC 36-5-6-7)

§ 31.08 TOWN MARSHAL AND DEPUTY MARSHALS.

(A) The Town Marshal is hereby authorized to appoint deputy marshals, provided, however, that said appointments are subject to the approval of the Town Council.

(B) The deputy marshals shall serve at the pleasure of the Town Council and the Town Marshal, subject to statutory law.

(C) The deputy marshals shall be at-will employees of the Town of Mentone, with no specific guarantee with respect to terms of employment.
(Ord. 342, passed 7-6-98)

CHAPTER 32: ECONOMIC DEVELOPMENT COMMISSION

Section

- 32.01 Establishment
- 32.02 Composition; appointment of members; term; vacancies
- 32.03 Compensation
- 32.04 Oath
- 32.05 Meeting
- 32.06 Selection of officers
- 32.07 Quorum
- 32.08 Bylaws, rules and regulations
- 32.09 Removal from office; judicial review
- 32.10 Powers and duties of Commission; President of the Town Council

§ 32.01 ESTABLISHMENT.

Pursuant and to IC 36-7-12-1 et seq. there is hereby created a Department of Economic Development to be known as the Town of Mentone Economic Development Commission (the "Commission").
(Ord. 234, passed 3-2-81)

§ 32.02 COMPOSITION; APPOINTMENT OF MEMBERS; TERM; VACANCIES.

(A) The members of the Economic Development Commission shall be appointed by the President of the Town Council. One of the members shall be selected by the President, one shall be nominated by the County Council, and one shall be nominated by the Town Council.

(B) The Economic Development Commissioners shall take office upon their appointment, and their terms shall run from February 1 after their original appointment, for a period of three years, if selected by the President; two years, if nominated by the Town Council; and one year if nominated by the County Council.
(IC 36-7-12-6)

(C) Appointments of members shall be made as set forth in IC 36-7-12-9, and the first paragraph of IC 36-7-12-10.

(D) If a person appointed as an Economic Development Commissioner fails to take the oath of office required by § 32.04 within ten days after the notice of his appointment is mailed to him, or if any Commissioner, after qualifying, dies, resigns, vacates his office, or is removed from office, a new Commissioner shall be appointed to fill the vacancy in the same manner as the commissioner in respect to whom the vacancy occurs was appointed. A Commissioner appointed under this division shall serve for the remainder of the vacated term. (IC 36-7-12-10)
(Ord. 234, passed 3-2-81)

§ 32.03 COMPENSATION.

Members of the Economic Development Commission shall receive no salaries but shall be entitled to reimbursement for any expenses necessarily incurred in the performance of their duties. (Ord. 234, passed 3-2-81)

§ 32.04 OATH.

Before beginning the Economic Development Commissioner's duties, each Economic Development Commissioner shall take and subscribe an oath of office in the usual form, to be indorsed upon the certificate of the Economic Development Commissioner's appointment. The certificate shall be promptly filed with the Clerk-Treasurer. (IC 36-7-12-11)

§ 32.05 MEETING.

The Economic Development Commission shall meet to reorganize in February of each succeeding year. (Ord. 234, passed 3-2-81)

§ 32.06 SELECTION OF OFFICERS.

The Economic Development Commission shall elect one of its members as President, one of its members as Vice President and one of its members as Secretary, each of which officer shall serve from the date of his election until January 31 next following his election or until his successor is elected and qualified. (Ord. 234, passed 3-2-81)

§ 32.07 QUORUM.

A majority of the Economic Development Commission shall constitute a quorum and the concurrence of a majority shall be necessary to authorize any action. (Ord. 234, passed 3-2-81)

§ 32.08 BYLAWS, RULES AND REGULATIONS.

The Economic Development Commission shall adopt such bylaws, rules and regulations as it may deem necessary for the proper conduct of its proceeding, the carrying out of its duties and the safeguarding of the funds and property placed in its custody by IC 36-7-12-1 et seq. (Ord. 234, passed 3-2-81)

§ 32.09 REMOVAL FROM OFFICE; JUDICIAL REVIEW.

Any member of the Economic Development Commission shall be removed from office for the reasons specified in IC 36-7-12-1 et seq. and shall receive such judicial review as outlined in IC 36-7-12-1 et seq.

(Ord. 234, passed 3-2-81)

§ 32.10 POWERS AND DUTIES OF COMMISSION; PRESIDENT OF THE TOWN COUNCIL.

(A) The Commission shall have such powers and make such reports as are required by IC 36-7-12-1 et seq.

(B) The President of the Town Council shall be empowered to do all that is necessary to effectuate the purposes of this chapter.

(Ord. 234, passed 3-2-81)

CHAPTER 33: FUNDS

Section

- 33.01 Capital Improvement Fund
- 33.02 Purpose
- 33.03 Rate of tax; disposition of surplus money
- 33.04 Rainy Day Fund

Cross reference:

Unsafe Building Fund, see § 153.40

§ 33.01 CAPITAL IMPROVEMENT FUND.

There is hereby created a Cumulative Capital Improvement Fund for the town.
(Ord. 167, passed 8-2-65)

§ 33.02 PURPOSE.

The Cumulative Capital Improvement Fund may be used for any one or more of the following purposes, as designated by Council:

- (A) To purchase, construct, equip, and maintain buildings for public purposes.
- (B) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.
- (C) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building.
- (D) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.
- (E) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.
- (F) To acquire land or rights-of-way to be used for public ways or sidewalks.
- (G) To construct and maintain public ways or sidewalks.
- (H) To acquire land or rights-of-way for the construction of sanitary or storm sewers, or both.
- (I) To construct and maintain sanitary or storm sewers, or both.
- (J) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility.

(K) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit.

(L) To purchase or acquire land, with or without buildings, for park or recreation purposes.

(M) To purchase, lease, or pay all or part of the purchase price of motor vehicles for the use of any combination of the Police, a community corrections program, or the Fire Department, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses.

(N) To purchase, lease, or pay all or part of the cost of electronic monitoring equipment used by a state or local community corrections program.

(O) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of Cumulative Capital Improvement Funds.

(P) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation use.

(Q) The fund may be used for any of the following purposes.

(1) To purchase, lease, upgrade, maintain, or repair one or more of the following:

(a) Computer hardware;

(b) Computer software;

(c) Wiring and computer networks; and

(d) Communication access systems used to connect with computer networks or electronic gateways.

(2) To pay for the services of full-time or part-time computer maintenance employees.

(3) To conduct nonrecurring inservice technology training of unit employees.

(IC 36-9-16-2; 36-9-16-3)

§ 33.03 RATE OF TAX; DISPOSITION OF SURPLUS MONEY.

(A) The Town Council may levy a tax not to exceed \$1 on each \$100 of taxable property within the town to provide for a Cumulative Capital Improvement Fund. The tax may be levied annually for any period not to exceed ten years and may be decreased or increased from year to year, except that the tax may not be increased above the levy approved by the State Board of Tax Commissioners.

(B) Surplus money in other accounts of the town, or other sources, and money acquired from other activities of the town, or other sources, may, by resolution of the Town Council and with the approval of the State Board of Tax Commissioners, be added to the Cumulative Capital Improvement Fund.

(C) Appropriations may be made as provided by law from the Cumulative Capital Improvement Fund for purposes of this chapter; or for a contribution to an authority established under IC 36-7-23. (IC 36-9-16-6)

§ 33.04 RAINY DAY FUND.

(A) The purpose of the Rainy Day Fund is to assist in the payment in all matters relating to the repairs and/or replacement of the storm water drainage system.

(B) The sources of funding may include unused or unencumbered funds under the following:

(1) General distribution of the State of Indiana;

(2) IC 36-1-8-1;

(3) IC 6-3.5-6-17(COIT);

(4) IC 6-3.5-7-17(CEDIT); and

(5) Any other funding source not otherwise prohibited by law.
(Ord. 09-406, passed 3-2-09; Am. Ord. 16-446, passed 8-1-16)

Editor's Note:

IC 6-3.5-6-17 and IC 6-3.5-7-17 are repealed by 2015 Public Law 243 §§ 7, 8.

CHAPTER 34: TOWN POLICIES

Section

Policies Generally

- 34.01 Compliance with Civil Rights Act
- 34.02 Anti-nepotism policy
- 34.03 Internal control standards
- 34.04 Purchasing procedures

Americans with Disabilities Act

- 34.10 Standards for accessible design; pedestrian facilities in the public right-of-way
- 34.11 ADA Coordinator and procedures

POLICIES GENERALLY

§ 34.01 COMPLIANCE WITH CIVIL RIGHTS ACT.

(A) The Town Council members will comply with the Civil Rights Act.

(B) No person shall, on the grounds of race, color, national origin, age or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or in part, by federal funds.

(C) Discrimination on the basis of sex or religion is also prohibited in some federal programs (age - 42 U.S.C. 6101 et seq.; race - 42 U.S.C. 200D; and handicap - 29 U.S.C. 794).
(Ord. 290, passed 3-2-92) Penalty, see § 10.99

§ 34.02 ANTI-NEPOTISM POLICY.

(A) It shall be the policy of the town, regarding the employment of relatives of elected officials in the same unit as codified in I.C. 36-1-20.2 et seq. as the same now exists and as the same may be amended from time to time is now adopted in its entirety.

(B) It shall be the policy of the town regarding the contracting with relatives of elected officials in the same unit as codified in I.C. 36-1-21 et seq. as the same now exists and as the same may be amended from time to time is now adopted in its entirety.
(Ord. 12-423, passed 6-4-12)

§ 34.03 INTERNAL CONTROL STANDARDS.

Policy on materiality and process of reporting material items:

(A) It will be the policy of the Clerk-Treasurer to report to the State Board of Accounts any erroneous or irregular variances, losses, shortages, or thefts of cash in excess of \$250, except for inadvertent clerical errors that are identified timely and promptly corrected with no loss to the Town of Mentone, Indiana.

(B) It will be the policy of the Clerk-Treasurer to report promptly to the State Board of Accounts any erroneous or irregular variances, losses, shortages, or thefts of non-cash items in excess of \$1,000, estimated market value, except for those resulting from inadvertent clerical errors or misplacements that are identified timely and promptly corrected with no loss to the Town of Mentone, Indiana, and except for losses from genuine accidents.

(C) All Town of Mentone, Indiana elected officials are asked, and all Town of Mentone, Indiana employees and agents are directed to comply with this policy, and the Town Council of Mentone, Indiana is asked to endorse it.
(Ord. 17-450, passed 1-9-17)

§ 34.04 PURCHASING PROCEDURES.

(A) The Town Utility Superintendent is hereby designated as the Purchasing Agency of the Town of Mentone with all the powers and duties authorized under I.C. 5-22. The Purchasing Agency should designate in writing the purchasing agents and may also designate in writing additional purchasing agents as necessary.

(B) The purchasing agent(s) may purchase supplies and/or services with an estimated cost of less than \$30,000 on the open market without initiating or receiving quotes or both.
(Ord. 18-455, passed 5-7-18)

AMERICANS WITH DISABILITIES ACT**§ 34.10 STANDARDS FOR ACCESSIBLE DESIGN; PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY.**

The Town Council hereby adopts the 2010 Americans with Disabilities (ADA) Standards for Accessible Design and 2011 Guidelines for Pedestrian Facilities in the Public Right-of-Way.
(Res. 13-426, passed 1-7-13)

§ 34.11 ADA COORDINATOR AND PROCEDURES.

(A) The Utilities Superintendent is designated as the ADA Coordinator for the town.

(B) The notice under the Americans with Disabilities Act, a copy of which is attached to Res. 13-427, passed January 7, 2013, is adopted as the town notice under the Americans with Disabilities Act.

(C) The town grievance procedure under the Americans with Disabilities Act, a copy of which is attached to Res. 13-427, passed January 7, 2013, is adopted as the grievance procedure for addressing complaints alleging discrimination on the basis of disability in the provision of services, activities, programs or benefits by the town.

(D) In compliance with federal and state laws as set forth above, the Town Council resolves to post the required information regarding the ADA Coordinator, notice under the Americans with Disabilities Act, and town grievance procedure under the Americans with Disabilities Act on its website and at other locations as may be determined from time to time.
(Res. 13-427, passed 1-7-13)

CHAPTER 38: TAXATION

Section

Property Tax Abatement

- 35.01 Designated areas qualifying for tax abatement
- 35.02 Procedural requirements for tax abatement in designated areas
- 35.03 Procedure for designation of additional areas to qualify for tax abatement
- 35.04 Expiration period for tax abatement

Cross-reference:

Specific economic revitalization areas, see T.S.O. V

PROPERTY TAX ABATEMENT

§ 38.01 DESIGNATED AREAS QUALIFYING FOR TAX ABATEMENT.

Those areas heretofore designated as economic revitalization areas, by any pending or final resolution of the Town Council shall continue according to such final resolution, or according to the final resolution entered with respect to any pending resolution.

(Ord. 297, passed 5-3-93)

§ 38.02 PROCEDURAL REQUIREMENTS FOR TAX ABATEMENT IN DESIGNATED AREAS.

(A) A property owner who desires to obtain the deduction for tax abatement must file a certified deduction application, on forms prescribed by the State Board of Tax Commissioners, with the County Auditor, according to IC 6-1.1-12.1-1 et seq., as amended.

(B) The deduction for rehabilitation or redevelopment of real property and new manufacturing equipment shall be pursuant to IC 6-1.1-12.1-1 through 6-1.1-12.1-5.6, as amended.

(Ord. 297, passed 5-3-93)

§ 38.03 PROCEDURE FOR DESIGNATION OF ADDITIONAL AREAS TO QUALIFY FOR TAX ABATEMENT.

(A) The Town Council may, at any time, upon its own initiative declare an area as an economic revitalization area by adopting a resolution therefor as is provided by IC 6-1.1-12.1-2.5, and by following those procedures provided therein contained in IC 6-1.1-12.1-1 et. seq.

(B) The owner or owners of property which is located within the town may petition the Town Council for tax abatement consideration by filing a petition with the Town Clerk-Treasurer and a proposed resolution to be adopted by the Town Council.

(C) The petition shall be completed in full and shall include the following information:

(1) The name or names and addresses of the property owners and any other persons leasing, intending to lease or having an option to buy such property;

(2) The legal description and commonly known address of the real property for which real property tax abatement is being petitioned, and/or the legal description and commonly known address of the facility in which the tangible personal property for which the tangible personal property tax abatement is being petitioned;

(3) A map designating the area in question for consideration, together with a statement identifying the zoning district in which the area is located;

(4) The assessed value of the real property improvement before rehabilitation or redevelopment, and/or the assessed value of the tangible personal property in use at that property before the acquisition of new manufacturing equipment;

(5) Pictures of the area in question taken at least two weeks within the filing of the petition;

(6) A written estimate of the market value of the real property improvements after the rehabilitation or redevelopment, and/or a written estimate of the market value of the proposed new manufacturing equipment;

(7) A statement describing how the public health and welfare will be benefited by this particular rehabilitation, redevelopment or acquisition of new manufacturing equipment, including a statement describing the proposed use;

(8) A statement indicating the level of employment that will be maintained or the number of new permanent jobs which will be created by the project;

(9) A statement verifying that the new manufacturing equipment in question has not been installed;

(10) A statement verifying that the area in question has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character occupancy, age obsolescence, substandard buildings or other facts which have impaired values or prevent a normal development of the property or property use; and

(11) For tangible personal property tax abatement petitioners, a statement verifying that the facility or group of facilities are technologically, economically or energy obsolete and that the obsolescence may lead to a decline in employment and tax revenues, and that the tangible property is to be **used in the direct production**, manufacture, fabrication, assembly, processing, refining or finishing of other tangible personal property.

(12) Any other information which is appropriate and material.

(D) The Town Council may refer the petitions to the Mentone Plan Commission, hereinafter called Commission, for the purposes of investigation and preparation of a report determining whether the area qualifies as an economic revitalization area under IC 6-1.1-12.1-1 et seq. or the Town Council may conduct its own investigation and determination without referring the matter to the Commission. If the petition is referred to the Commission, then within 30 days of the referral of the petition, the Commission shall submit the report of its investigation and findings to the Town Council.

(E) The Town Council, upon completing its consideration of the petition, may adopt a resolution declaring any part of the areas included in the petition as a designed economic revitalization area together with such areas as the Town Council determines should also at the time be so designated. The resolution may establish such standards, qualifications and limitations as are permitted by IC 6-1.1-12.1-1 et. seq. as the Town Council determines is best for the town.

(F) Upon the adoption of a resolution designating an economic revitalization area, whether upon its own initiative or upon a petition, the town shall set the matter for further hearing before the Town Council, and the Clerk-Treasurer shall deliver to the County Assessor two copies of the resolution, and shall publish notice of the adoption of the resolution and of the hearing, all as is required by IC 6-1.1-12.1-1 et. seq., as amended, and which notice shall contain all things as is required by that statute.

(G) (1) At the public hearing on the resolution, the Town Council will hear remonstrances and objections pertaining to the resolution and shall take final action at the time to adopt, modify or rescind that resolution, considering those things required by statute, and in addition, considering the public utility and benefit of those properties to be considered by such designation.

(2) That all things shall be considered, including, but not limited to the following criteria:

(a) For real property tax abatement, whether there is compliance with the definition of an economic revitalization area;

(b) For tangible personal property tax abatement, whether there is compliance with the statutory criterion;

(c) Whether the project will result in maintaining or increasing permanent jobs within the community;

(d) Whether there will be a net expansion of the assessed valuation of real and personal property within the community;

(e) Any other benefits to the community; and

(f) The need for the improvement of the area.
(Ord. 297, passed 5-3-93)

§ 38.04 EXPIRATION PERIOD FOR TAX ABATEMENT.

The expiration period for real property tax abatement shall be determined by the Town Council as is provided by IC 6-1.1-12.1-1 et seq., but tangible personal property tax abatement shall be determined by IC 6-1.1-12.1-1 et seq., and as amended.
(Ord. 297, passed 5-3-93)

CHAPTER 36: ORDINANCE VIOLATION BUREAU

Section

- 36.01 Establishment
- 36.02 Penalties defined
- 36.03 Violation Clerk responsibilities
- 36.04 Violations and penalties
- 36.05 Multiple violation additional fines
- 36.06 Construction and other legal provisions

§ 36.01 ESTABLISHMENT.

There is hereby created an ordinance violation bureau for the Town of Mentone and the Clerk-Treasurer of the Town of Mentone shall serve as the violations clerk of such bureau.
(Ord. 331, passed 10-6-97)

§ 36.02 PENALTIES DEFINED.

The penalties set forth herein amend all specific or general penalties sections of the code only as they relate to specific offenses set out in § 36.04. Otherwise, this chapter does not amend any penalty sections of the code.
(Ord. 331, passed 10-6-97)

§ 36.03 VIOLATION CLERK RESPONSIBILITIES.

The violations clerk shall accept written appearances, waivers of trial, admissions of violations and payment of civil penalties of not more than \$50.00 in ordinance violation cases.
(Ord. 331, passed 10-6-97)

§ 36.04 VIOLATIONS AND PENALTIES.

The following ordinances of the town shall be subject to admission of violation before the violations clerk:

ORDINANCE VIOLATIONS

<u>Code Reference</u>	<u>Violation</u>	<u>Civil Penalties</u>	<u>Second or Sequent Violation Penalties</u>
Ord. #93.01 (181)	Property to be kept free from garbage, weeds and the like.	\$25.00	\$50.00

Mentone - AdministrationORDINANCE VIOLATIONS (Cont'd)

<u>Code Reference</u>	<u>Violation</u>	<u>Civil Penalties</u>	<u>Second or Sequent Violation Penalties</u>
Ord. #311	Regulating open-burning	\$25.00	\$50.00
Ord. #90.02 (171)	Abandonment of vehicles prohibited	\$25.00	\$50.00
Ord. #90.03 (171)	Leaving of wrecked non-operating vehicles on street prohibited	\$25.00	\$50.00
Ord. #91.40 (249)	Running at large prohibited (dogs)	\$25.00	\$50.00
Ord. #91.60 (249)	Running at large prohibited (cats)	\$25.00	\$50.00
Ord. #130.01-130.02 and #92.03 (306)	Curfew	\$25.00	\$50.00
Ord. #91.02 (312)	Public Nuisance	\$25.00	\$50.00
Ord. #70.01, 70.02, and #72.00 (252)	Traffic Ordinance (for parking)	\$25.00	\$50.00
Ord. #96.02, 96.15, 96.16, 96.17 and 96.40 (347) (Ord. 331, passed 10-6-97)	Traffic Ordinances (for bicycles, skateboards, skates, and scooters)	No Fine	\$25.00/50.00

§ 36.05 MULTIPLE VIOLATION ADDITIONAL FINES.

Any person, corporation or organization who commits more than one violation of any of the offenses specifically noted herein within any 30 day period will be subject to an increased fine as set forth herein for each and every violation.

Every day, or part of a day, that a violation is committed or continues in existence is a separate violation for which civil penalties may be imposed.
(Ord. 331, passed 10-6-97)

§ 36.06 CONSTRUCTION AND OTHER LEGAL PROVISIONS.

(A) The provisions of this chapter supplement all laws of the State of Indiana and all Kosciusko County Ordinances covering the same subject matter.

(B) All other ordinances of the Town of Mentone that are in conflict with this chapter are hereby repealed to the extent of such conflict.
(Ord. 331, passed 10-6-97)

TITLE V: PUBLIC WORKS

Chapter

50. GARBAGE AND REFUSE

51. SEWERS

52. WATER

53. STORMWATER

CHAPTER 50: GARBAGE AND REFUSE

Section

- 50.01 Definitions
- 50.02 Receptacles required for garbage, trash
- 50.03 Garbage can requirements
- 50.04 Garbage to be wrapped
- 50.05 Placement of receptacles
- 50.06 Burning of garbage
- 50.07 Fee for services
- 50.08 Accumulation of garbage declared nuisance; abatement by town; collection costs
- 50.09 Application of provisions

- 50.99 Penalty

§ 50.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTAINER. A metal or plastic can of not more than 32 gallons capacity having a tight-fitting cover and so equipped with handles that it may be lifted and carried by one man.

GARBAGE. The waste resulting from the handling, preparation, cooking and consumption of food, whether for humans or for animals, and of waste from the handling, storage and sale of food materials.

REFUSE. All trash, combustible or not, including but not limited to, paper, cartons, boxes, barrels, wood, excelsior, glass, crockery, ashes and the residue from fires and other mineral waste, but shall not include natural debris, and shall not include earth and waste from building operations, nor solid waste resulting from industrial processes and manufacturing operations.
(Ord. 260, passed 3-2-87)

§ 50.02 RECEPTACLES REQUIRED FOR GARBAGE, TRASH.

(A) The occupant of every building or premises in the town, where trash, garbage and table scraps, or other refuse is created or accumulated shall provide and maintain a garbage can or receptacle therefor.

(B) All accumulations of ashes, cans, bottles, metal, wood, paper, glass and similar small trash on the premises shall be placed in a similar garbage can or receptacle.
(Ord. 260, passed 3-2-87)

§ 50.03 GARBAGE CAN REQUIREMENTS.

In all residential areas, garbage cans or receptacles shall be metal or plastic, shall be non-leakable, and with a tight cover thereon; and the same shall be covered with said tight cover at all times except when depositing garbage therein and removing garbage therefrom.
(Ord. 260, passed 3-2-87)

§ 50.04 GARBAGE TO BE WRAPPED.

Prior to placing garbage in the receptacles, said garbage shall be wrapped; no unwrapped garbage shall be placed in said garbage receptacle.
(Ord. 260, passed 3-2-87)

§ 50.05 PLACEMENT OF RECEPTACLES.

Garbage and trash cans, or receptacles, shall be placed on or near the premises so occupied, so as to be easily accessible to garbage and trash removing trucks.
(Ord. 260, passed 3-2-87)

§ 50.06 BURNING OF GARBAGE.

It shall be unlawful for any occupant to burn garbage.
(Ord. 260, passed 3-2-87)

Cross-reference:

Burning garbage and the like upon streets and sidewalks, see § 94.01

§ 50.07 FEE FOR SERVICES.

(A) The owners of every residential single-family home shall be assessed a fee of \$10 per month for the removal of garbage and trash.

(B) The owners of multi-family dwellings or apartment houses shall be assessed a fee of \$10 per month per family residing in said premises for the removal of garbage and trash.

(C) The said payments shall be made on a monthly basis concurrently with the payment of the water bill.

(D) The fee for the removal of garbage and trash may vary from year to year, depending on the bid the town is able to secure for such services.

(Ord. 260, passed 3-2-87; Am. Ord. 293, passed 3-1-93; Res. 339, passed 2-2-98; Am. Res. 362, passed 8-4-03; Am. Ord. 07-387, passed 2-5-07; Am. Ord. 08-403, passed 9-8-08)

§ 50.08 ACCUMULATION OF GARBAGE DECLARED NUISANCE; ABATEMENT BY TOWN; COLLECTION COSTS.

(A) Any mass or accumulation of garbage, refuse and natural debris other than natural debris deposited by the wind and natural forces, on any property within the town in violation of this chapter is hereby declared a nuisance.

(B) The owner or occupant of the property upon which such nuisance is found shall be ordered by the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, to abate the same, not later than a date to be stated in a written notice ordering such abatement, and in no case less than five days.

(C) Upon failure of the occupant to abate such nuisance, the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, may enter upon such premises and abate the same, the costs of which shall be assessed against the owner of such property, and if not paid within 30 days after notification thereof, the town may impose a lien upon such property for such expense and shall place the same upon the tax duplicate in the office of the County Treasurer for collection as provided by law.

(Ord. 260, passed 3-2-87; Am. Ord. 277, passed 9-11-89)

§ 50.09 APPLICATION OF PROVISIONS.

The provisions of this chapter shall apply to and shall govern every building or premises of the town used and occupied for residential purposes with respect to the disposition of garbage and trash as hereinabove stated. It is the intention of the Town Council to exclude from the requirements herein contained, commercial premises and mobile home parks.

(Ord. 260, passed 3-2-87)

§ 80.99 PENALTY.

Any persons, firm or corporation, violating the provisions of this chapter shall be fined not less than \$10 nor more than \$50 for any such violation.

(Ord. 260, passed 3-2-87)

CzoaB-Tofezmce;

Ordinance Violation Bureau penalties, see § 36.04

CHAPTERS!: SEWERS

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GENERAL PROVISIONS

§ 51.001 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMMONIA or $NH_3 \cdot N$. AMMONIA shall mean the same as Ammonia Nitrogen measured as Nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" as defined herein.

BIOCHEMICAL OXYGEN DEMAND or BOD. Pertaining to sewage, sewage effluent, polluted waters or industrial wastes, this term shall mean the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action

under standard laboratory procedures for five days at 20° C. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods."

BUILDING or HOUSE DRAIN. The lowest horizontal piping of building drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to a point approximately five feet outside the foundation wall of the building.

BUILDING DRAIN — SANITARY. A building drain which conveys sanitary or industrial sewage only.

BUILDING DRAIN — STORM. A building drain which conveys storm water or other clean water drainage, but no wastewater.

BUILDING or HOUSE LATERAL SEWER. The extension from the building drain to the sewerage system or other place of disposal. (Also called house connections.)

BUILDING SEWER — SANITARY. A building sewer which conveys sanitary or industrial sewage only. The building sewer will have a suitable septic tank as a component.

BUILDING SEWER — STORM. A building sewer which conveys storm water or other clean water drainage, but no wastewater.

CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND or CBOD. Five day measure at pollutant parameters Carbonaceous Biochemical Oxygen Demand.

CHEMICAL OXYGEN DEMAND or COD. Pertaining to sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in "Standard Methods."

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the treatment works was designed to treat such pollutants and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of 80% or greater. Minor incidental removals in the order of 10% to 30% are not considered substantial. Examples of the additional pollutants which may be considered compatible include:

- (1) Chemical oxygen demand,
- (2) Total organic carbon,
- (3) Phosphorus and phosphorus compounds,
- (4) Nitrogen and nitrogen compounds, or
- (5) Fats, oils and greases of animal or vegetable origin (except as prohibit where these materials would interfere with the operation of the treatment works).

DEBT SERVICE COSTS. The average annual principal and interest payments on all proposed revenue bonds or other long-term capital debt.

EASEMENT. An acquired legal right for the specific use of land owned by others, including but not limited to right of access to the property's septic tank for the purposes of cleaning and inspection.

EXCESSIVE STRENGTH SURCHARGE. An additional charge which is billed to users for treating sewage wastes with average strength in excess of "normal domestic sewage."

FECAL COLIFORM. Any of a number of organisms common to the intestinal tract of humans and animals, whose presence in sanitary sewage is an indicator of pollution.

FLOATABLE OIL. Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the town.

GARBAGE. Any solid wastes from the preparation, cooking or dispensing of food and from handling, storage or sale of produce.

INCOMPATIBLE POLLUTANT. Any pollutant that is not defined as a compatible pollutant, including nonbiodegradable dissolved solids, and further defined in Regulation 40 CFR Part 403.

IDEM. Indiana Department of Environmental Management.

INDUSTRIAL WASTES. Any solid, liquid or gaseous substances or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by a person and shall further mean any waste from an industrial sewer.

INFILTRATION. The water entering, a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Infiltration does not include and is distinguished from inflow.)

INFILTRATION/INFLOW. The total quantity of water from both, infiltration and inflow without distinguishing the source.

INFLOW. The water discharged into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leader, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, catch basins, storm waters, surface runoff, street wash waters or drainage. (Inflow does not include, and is distinguishable from infiltration.)

INSPECTOR. The person or persons duly authorized by the town through its Town Council to inspect and approve the installation of building sewers and their connection to the public sewer system.

MAJOR CONTRIBUTOR. A contributor that:

- (1) Has a flow of more than 1,000 gallons per average workday.
- (2) Has in its waste a toxic pollutant in toxic amounts as defined in Section 307(a) of the Federal Act or State Statutes and rules.
- (3) Has a flow greater than 5% of flow carried by the municipal system receiving the waste.

(4) Is found by the Town, State Control Agency or the U.S. Environmental Protection Agency (USEPA) to have significant impact, either singly or in connection with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

NPDES PERMIT. National Pollutant Discharge Elimination System Permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of Public Law 95-217.

NATURAL OUTLET. Any outlet, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC SEWAGE.

(1) For the purpose of determining surcharges, this term shall mean wastewater or sewage having an average daily concentration as follows:

(a) S.S. not more than 50 milligrams per liter.

(b) CBOD not more than 200 milligrams per liter.

(2) As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from industrial processes.

OPERATION AND MAINTENANCE COST. This term includes all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include replacement.)

OTHER SERVICE CHARGES. Tap charges, connection charges, area charges, and other identifiable charges other than excessive strength surcharges.

pH. The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution.

PERSON. Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, copartnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Indiana, the United States of America, or other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

PHOSPHOROUS or P. The chemical element phosphorus, total. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" as defined in this section.

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, processes changes or by other means, except as prohibited by 40 CFR Section 403.6(d); and shall include all applicable rules and regulations

contained in the code of Federal Regulations as published in the Federal Register, under Section 307 of PL 95-217, under regulation 40 CFR Part 403 pursuant to the Act, and amendments.

PRIVATE SEWER A sewer which is not owned by public authority.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than $\frac{1}{2}$ inch in any dimension.

PUBLIC SEWER A sewer which is owned and controlled by the public authority and will consist of the following increments:

(1) **COLLECTOR SEWER** A sewer whose primary purpose is to collect wastewaters from individual point source discharges.

(2) **INTERCEPTOR SEWER** A sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

(3) **FORCE MAIN.** A pipe in which wastewater is carried under pressure.

(4) **PUMPING STATION.** A station positioned in the public sewer system at which wastewater is pumped to a higher level.

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

SEWER USE REGULATIONS. Regulations set forth in §§ 50.001 through 50.070 and §§ 50.997 through 50.999, which regulates the connection to and use of public and private sewers.

SANITARY SEWER A sewer which carries sanitary and industrial wastes, and to which storm, surface and ground water are not intentionally admitted.

SEPTIC TANK EFFLUENT. Normal domestic sewage pretreated by a suitable septic tank, that is free of grit, grease and settleable solids which may cause obstructions in the small diameter gravity sewer.

SEWAGE. The combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions (including polluted cooling water). The most common types of sewage are:

(1) **SANITARY SEWAGE.** The combination of liquid and water-carried wastes discharged from toilet and other sanitary pumping facilities.

(2) **INDUSTRIAL SEWAGE.** A combination of liquid and water-carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment. (This shall include the wastes from pretreatment facilities and polluted cooling water.)

SEWAGEWORKS. The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

SEWER. A pipe or conduit for carrying sewage.

SLUG. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than five minutes more than five times the average 24-hour concentration of flow during normal operation and which adversely affects the sewage works.

SMALL DIAMETER GRAVITYSEWER. A gravity sewer which conveys sewage following solid/liquid separation by a suitable septic tank or other approved on site treatment system.

STANDARD METHODS. The laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association and The Water Pollution Control Federation.

STORM SEWER. A sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

SUITABLE SEPTIC TANK. A septic tank that is constructed in accordance with 410-IAC-6-8-1 with the exception that the septic tanks shall be as specified in the *Rules and Regulations Pertaining to Septic Tanks* maintained in the office of the Clerk Treasurer which are subject to change from time to time according to law.

SUPERINTENDENT. This term shall mean the Superintendent of the municipal sewage works of the town, or his authorized deputy, agent or representative.

SUSPENDED SOLIDS or S.S. Solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods."

TOTAL SOLIDS. The sum of suspended and dissolved solids.

TOWN. The Town of Mentone acting by and through the Town Council.

TOXIC AMOUNT. Concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to the Clean Water Act (PL 95-217).

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

USER CHARGES. A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.

USER CLASS. The division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities, (that is residential, commercial, industrial, institutional, and governmental in the User Charge System).

(1) **RESIDENTIAL USER** A user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, and the like.

(2) **COMMERCIAL USERS.** Any establishment involved in a commercial enterprise, business or service which based on a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(3) **INSTITUTIONAL USER** Any establishment involved in a social, charitable, religious, and/or educational function which based on a determination by the town discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(4) **GOVERNMENTAL USER** Any federal, state or local governmental user of the wastewater treatment works.

(5) **INDUSTRIAL USER** Any manufacturing or processing facility that discharges industrial waste to a wastewater treatment works.

VOLATILE ORGANIC MATTER The material in the sewage solids transformed to gases or vapors when heated to 550° C. for 15 to 20 minutes.

WASTEWATER Water in which sewage has been discharged.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.
(Ord. 275, passed 4-3-89; Ord. 274, passed 5-1-89)

§ 51.002 DEPOSITING OBJECTIONABLE WASTE, WASTEWATER OR OTHER POLLUTED WATER, PROHIBITED.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of said town, any human excrement, garbage or other objectionable waste.

(B) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the town, any wastewater or other polluted water except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.003 DISCHARGE OF UNTREATED SEWAGE OR OTHER POLLUTED WATERS TO NATURAL OUTLETS.

No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted water or unpolluted industrial water.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.004 PRIVIES, SEPTIC TANKS AND OTHER FACILITIES.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.005 OWNER'S RESPONSIBILITY TO INSTALL SUITABLE TOILET FACILITIES.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities (through and including a suitable septic tank) directly with the proper public sewer in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that said public sewer is within 200 feet of the property line. As a condition of connection to a public sewer, the owner shall grant a right of access easement to the septic tank to the town for the purpose of cleaning and inspection.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.006 DAMAGING OR TAMPERING WITH MUNICIPAL SEWAGE WORKS.

No unauthorized person shall maliciously, willfully or negligently break, damage, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.007 RIGHT OF ENTRY FOR PURPOSE OF INVESTIGATION; INDEMNIFICATION; EASEMENTS ON PRIVATE PROPERTY.

(A) The Superintendent, Inspector and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties referred to in division (A) above, the Superintendent or duly authorized employees of the town shall observe safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the town employees and the town shall indemnify the company against loss or damage to its property by town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.060.

(C) The Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all **private properties through which the town holds a duly** negotiated easement for the purpose of, but not limited to, inspection, observation, measurement,

sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
(Ord. 275, passed 4-3-89)

PRIVATE SEWAGE DISPOSAL SYSTEMS

§ 51.020 CONNECTING BUILDING SEWER TO PRIVATE SEWAGE DISPOSAL SYSTEM.

Where a public sanitary sewer is not available under the provisions of § 51.005, the building sewer shall be connected to a private sewage disposal system in accordance with Kosciusko County Sewage System Ordinance 16-1-3-13.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.021 CONNECTING PRIVATE SEWAGE DISPOSAL SYSTEM TO PUBLIC SEWER.

At such time as a public sewer becomes available to a property served by a private sewage disposal system a direct connection shall be made to the public sewer in compliance with this chapter, and any unsuitable septic tanks, all cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.022 CONNECTING BUILDING SEWER TO PUBLIC SEWER.

When a public sewer becomes available, the building sewer shall be connected to said sewer within 90 days and the unsuitable private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.023 NONINTERFERENCE WITH ADDITIONAL REQUIREMENTS.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.
(Ord. 275, passed 4-3-89)

§ 51.024 SEPTIC TANK CONSTRUCTION SPECIFICATIONS.

Septic tanks serving as a component of the building sewer shall be installed, constructed and maintained in accordance with applicable portions of 410 IAC 6-8-1 with the exception that the septic tanks shall be as specified in the *Rules and Regulations Pertaining to Septic Tanks*. A septic tank so installed, constructed and maintained shall be considered suitable for use as a component of a building

sewer. Two copies of 410 IAC 6-8-1 and the *Rules and Regulations Pertaining to Septic Tanks* are on file in the office of the Town Clerk Treasurer.

(Ord. 275, passed 4-3-89) Penalty, see § 51.999

BUILDING SEWER AND CONNECTIONS

§ 51.035 CONNECTION PERMIT REQUIRED.

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer.

(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.036 BUILDING SEWER PERMITS.

There shall be two classes of building sewer permits: For residential and commercial service, and for service to establishments producing material wastes. In either case, the owner or his agent shall make application on a special form furnished by the said town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$30 for a residential or commercial building permit and \$50 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed.

(Ord. 275, passed 4-3-89)

§ 51.037 COSTS AND EXPENSES OF INSTALLATION AND CONNECTION OF BUILDING SEWER; INDEMNIFICATION.

All costs and expenses incident to the installation and connection of the building sewer shall be born by the owner with the exception that the town shall, at its expense, clean and inspect each septic tank which will be connected to the public sewer prior to October 1, 1990. Said inspection shall be for the purpose of insuring that each septic tank connected to the public sewer is structurally sound and meets all criteria as provided in § 51.024. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. 275, passed 4-3-89)

§ 51.038 SEPARATE BUILDING SEWER PROVIDED FOR EVERY BUILDING.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. 275, passed 4-3-89)

§ 81.039 USE OF OLD BUILDING SEWERS WITH NEW BUILDINGS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the said Inspector, to meet all requirements of this chapter.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.040 SIZE, SLOPE AND ALIGNMENT.

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointly testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.041 GRAVITY FLOW TO PUBLIC SEWER; APPROVED MEANS OF LIFTING.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity, flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
(Ord. 275, passed 4-3-89)

§ 81.042 SOURCES OF SURFACE RUNOFF OR GROUNDWATER.

No person shall make connection of roof downspouts, basement drains, sump pumps, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.043 CONNECTION OF BUILDING SEWER TO PUBLIC SEWER; CONFORMANCE WITH APPLICABLE REGULATIONS.

The connection of a building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town, or the procedures set forth in appropriate specifications of A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.044 EXCAVATIONS.

All excavations for building sewer installation **must be adequately guarded with barricades and lights** so as to protect the public from hazard. Streets, sidewalks, parkways and other public property

disturbed in the course of the work shall be restored in a manner satisfactory to the town.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.048 INSPECTION OF CONNECTION TO PUBLIC SEWER.

The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer. The construction shall be made under the supervision of the Inspector or his representative.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.046 NEW CONNECTIONS; AVAILABLE CAPACITY FOR WASTEWATER REQUIRED.

No new connection shall be made unless there is capacity available to all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for BOD and S.S.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

USE OF PUBLIC SEWERS

§ 81.088 DISCHARGE OF STORM WATER AND OTHER UNPOLLUTED DRAINAGE.

(A) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted water or unpolluted industrial water.

(B) Storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the town.

(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.086 PROHIBITED DISCHARGES TO PUBLIC SEWERS.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any wastewater not having been treated by a suitable septic tank.

(B) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(C) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.

(D) Any waters or wastes having a pH lower than 6 or having any other corrosive property capable of causing damage or hazard to structure, equipment and personnel of the sewage works, or that interferes with any treatment process.

(E) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, and the like, either whole or ground by garbage grinders.

(F) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the wastewater works, or to exceed the limitations set forth in the applicable Federal Categorical Pretreatment Standards or other pretreatment standards or regulations issued by USEPA or the IDEM. A toxic pollutant identified pursuant to Section 307(a) of the Federal Water Pollution Control Act, as amended.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.057 DISCHARGE OF CERTAIN WASTES RESTRICTED.

No person shall discharge or cause to be discharged the following described substances, materials or wastes if it appears likely in the opinion of the Town Council that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming its opinion as to the acceptability of these wastes, the Town Council will give consideration to the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant and other pertinent factors. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than 150° F. or 65° C.

(B) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures, between 32 and 150° F. or 0 and 65° C.

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Town Council.

(D) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc and similar, objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

(F) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Town Council as necessary, after

treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town Council in compliance with applicable state or federal regulations.

(H) Any waters or wastes having a pH in excess of nine.

(I) Materials which exert or cause:

(1) Unusual concentrations of inert S.S. (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(3) Unusual S.S., CBOD, BOD, Ammonia, Ammonia-Nitrogen, Phosphorus, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined in § 51.001.

(J) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent can not meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(K) It shall be unlawful for any person to place, deposit, permit to be deposited, or discharged in any manner whatsoever, any substance into a sewer at a point different than the proposed sewer connection to the sanitary sewer system.

(Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 51.058 PRETREATMENT OR EQUALIZATION OF WASTE FLOWS.

(A) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 51.057 of this article, and which in the judgment of the Town Council may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or otherwise create a hazard to life or constitute a public nuisance, the Town Council may:

(1) Require new industries or industries with significant increase in discharges to submit information on wastewater characteristics and obtain prior approval for discharges.

(2) Reject the wastes in whole or in part for any reason deemed appropriate by the town.

(3) Require pretreatment of such wastes to within the limits of normal sewage as defined.

(4) Require control of flow equalization of such wastes so as to avoid any "slug" loads or excessive loads that may be harmful to the treatment works.

(5) Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.

(B) If the Town Council permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Town Council and subject to the requirements of all applicable codes, ordinances and laws.
(Ord. 275, passed 4-3-89)

§ 81.059 GREASE, OIL AND SAND INTERCEPTORS.

(A) Grease, oil and sand interceptors or traps, shall be provided when, in the opinion of the town, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients, except that such interceptors or traps will not be required for private living quarters or dwelling units. All interceptors or traps shall be of a type and capacity approved by the town and shall be located so as to be readily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures and shall be of substantial construction, be gas tight and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

(B) Specification for grease, oil, and sand interceptors shall be in accordance with Sections 711, 712, 713, of the Indiana Plumbing Rules, 1981 Edition, (660 IAC 9) originally published as (4 IR 2398) which identifies, amends, and incorporates therein the Uniform Plumbing Code, 1979 Edition. Copies of the Uniform Plumbing Code and Rules, Regulations and Codes adopted herein by reference are on file as required by law in the office of the Clerk Treasurer.
(Ord. 275, passed 4-3-89)

§ 81.060 DETERMINATION OF WHETHER SEPTIC TANKS MEET INTERCEPTOR REQUIREMENTS.

The Superintendent may determine whether the suitable septic tank required as a component of the building sewer will satisfy the requirements for an interceptor(s).
(Ord. 275, passed 4-3-89)

§ 81.061 PRELIMINARY TREATMENT FACILITIES.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
(Ord. 275, passed 4-3-89)

§ 51.062 CONTROL MANHOLE; MEASUREMENTS, TESTS AND ANALYSES.

(A) When required by the Superintendent, the owner or any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters

and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Agents of the town, the State Water Pollution Control Agencies and the USEPA shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing.

(B) All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole, except for application for NPDES permits and report thereof such shall be conducted in accordance with rules and regulations adopted by the USEPA 40 CFR Part 136 and any subsequent revisions subject to approval by the town. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and S.S. analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.) (Ord. 275, passed 4-3-89) Penalty, see § 51.999

§ 81.063 INDUSTRIAL WASTES; SPECIAL AGREEMENTS.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste or unusual strength or character may be accepted by the town for treatment, subject to payment therefore, by the industrial concern, at such rates as are incompatible with §§ 51.080 through 51.091. (Ord. 275, passed 4-3-89)

§ 81.064 PRETREATMENT OF INDUSTRIAL WASTES; CONFORMANCE WITH APPLICABLE REGULATIONS.

Pretreatment of industrial wastes from major contributing industries prior to discharge to the treatment works is required and is subject to the Rules and Regulations adopted by the USEPA (40 CFR Part 403), and "Guidelines Establishing Test Procedures for Analysis of Pollutants" (40 CFR Part 136), in addition to any more stringent requirements established by the town and subsequent state or federal guidelines and rules and regulations. (Ord. 275, passed 4-3-89) Penalty, see 51.999

§ 51.065 PRETREATMENT OF CONTROL FACILITIES; WRITTEN APPROVAL FOR CONSTRUCTION, MAINTENANCE AND RECORDS.

Plans, specifications and any other pertinent information relating to pretreatment of control facilities shall be submitted for approval of the town and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained

continuously in satisfactory and effective operating order by the owner at his expense and shall be subject to periodic inspection by the town to determine that such facilities are being operated in conformance with the applicable federal, state and local laws and permits. The owner shall maintain operating records of the influent and effluent to show the performance of the treatment facilities and for comparison against town monitoring records.

(Ord. 275, passed 4-3-89) Penalty, see 51.999

§ 81.066 DISCHARGE OF WATER FROM COOLING SYSTEMS OR SWIMMING POOLS INTO STORM SEWER.

Unpolluted water from air conditioners, cooling, condensing systems or swimming pools shall be discharged to a storm sewer, where it is available, approved by the town. Where a storm sewer or natural sewer is not available, such discharge may be to a natural outlet approved by the town and by the state. Where a storm sewer or natural sewer is not available, such unpolluted water may be discharged to a sanitary sewer pending written approval by the town.

(Ord. 275, passed 4-3-89) Penalty, see 51.99

§ 81.067 PRETREATMENT AND DISCHARGE OF INDUSTRIAL COOLING WATER.

Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged in accordance with § 51.066.

(Ord. 275, passed 4-3-89) Penalty, see 51.999

§ 81.068 WASTEWATER FLOW CHARACTERISTICS; INFORMATION BY USERS TO BE SUPPLIED.

The town may require users of the treatment works, other than residential users, to supply pertinent information on wastewater flow characteristics. Such measurements, tests and analyses shall be made at the users' expense. If made by the town, an appropriate charge may be assessed to the user at the option of the town.

(Ord. 275, passed 4-3-89)

§ 81.069 DETERMINATION OF STRENGTH OF WASTEWATERS.

The strength of wastewaters shall be determined, for periodic establishment of charges provided for in §§ 51.080 through 51.091, from samplings taken at the aforementioned structure at any period of time and of such duration and in such manner as the town may elect, or at any place mutually agreed upon between the user and the town. Appropriate charges for sampling and analysis may be assessed to the user at the option of the town. The results of routine sampling and analysis by the user may also be used for determination of charges after verification by the town.

(Ord. 275, passed 4-3-89)

<i>SEPTIC TANK SIZE</i>	<i>FACTOR</i>	<i>LUMPSUM SURCHARGE</i>
1,000 gallons	1.0	\$306
1,500 gallons	1.4	428
2,000 gallons	1.9	581
2,500 gallons	2.4	734
3,000 gallons	2.9	887
2,300 gallons	3.1	979
4,000 gallons	3.9	1,193

(2) The owner of any building which comes into existence after May 1, 1989, that is required by Sewer Use Ordinance No. 275 to connect to the public sewer prior to connecting to the sewer line shall pay:

(a) The above described lump sum surcharge;

(b) All costs incidental to the connection to the public sewer, including the cost of septic tank, excavation, backfill, and pavement replacement.

(B) The owner of any lot, parcel of real estate, or building connecting to the sewage works shall, prior to being permitted to make a connection, pay an inspection fee in the amount of \$30 for each connection.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.088 SPECIAL RATE CONTRACTS.

The Town Council is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.089 TOWN MAY PROHIBIT DUMPING OF HARMFUL WASTES; PRETREATMENT OF WASTES REQUIRED.

The town is hereby authorized to prohibit dumping of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the town, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) Permit issued to the sewage works or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto, or the Town's Pretreatment Program Plan.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.090 ENFORCEMENT OF BYLAWS AND REGULATIONS.

The town shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations, and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, the sewage collection system, and for the regulation, collection, and rebating and refunding of such rates and charges.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.091 RIGHT TO APPEAL.

That the rules and regulations promulgated by the town, after approval by the Town Council, shall among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Town Council and that any decision concerning the sewage system or user charges of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.092 RESIDENTIAL SPRINKLER CREDIT POLICY; POOL FILL CREDIT.

(A) In the months of June, July, and August a sewer credit can be obtained for watering yards for residential customers only. The water usage from the months of January, February, and March, or three months of normal usage, will be averaged. If the water usage for one of the said three months, when sprinkling was done, is above the average of the three winter months the difference will be adjusted off of the sewer portion of the bill.

(B) *Example:*

Average from January, February, and March = 4,000 gallons;

Water used in August = 6,000 gallons;

Adjusted off sewer bill: 2,000 gallons.

(C) If the sprinkler credit is to be obtained, the customer must inform the Clerk/Treasurer by day 20 of the month that the credit will be used, and be a residential customer. This can be done for the three months of June, July, and August.

(D) *Pool fill credit.* There is a sewer credit for filling a swimming pool. The amount of water put into a swimming pool can be adjusted off of the sewer bill.

(Res. 11-419, passed 3-7-11)

§ 51.997 ADMINISTRATIVE RELIEF.

Any person who believes himself aggrieved through the enforcement of §§ 51.001 through 51.070 has the right to seek administrative relief before the town.
(Ord. 275, passed 4-3-89)

§ 51.998 NOTICE OF VIOLATION; LIABILITY.

(A) Any person found to be violating any provisions of this chapter shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned by the town by reason of such violation.
(Ord. 275, passed 4-3-89)

§ 51.999 PENALTY.

Any person who shall continue any violation of this chapter beyond the time limit provided for in § 51.998 division (A) shall be guilty of a violation and on conviction thereof shall be fined in an amount not exceeding \$100 for each violation. Each day in which any violation shall continue shall be deemed a separate offense.
(Ord. 275, passed 4-3-89)

CHAPTER 52: WATER

Section

General Provisions

- 52.01 Acceptance of management responsibilities in accordance with water quality management planning requirements
- 52.02 Private wells
- 52.03 External shut-off

Rates and Charges

- 52.10 Establishment
- 52.11 Meter reading; billing

GENERAL PROVISIONS

§ 52.01 ACCEPTANCE OF MANAGEMENT RESPONSIBILITIES IN ACCORDANCE WITH WATER QUALITY MANAGEMENT PLANNING REQUIREMENTS.

The town desires to be the approved designated management agency for the control of water pollution sources within its area of legal jurisdiction.
(Ord. 264, passed 8-3-87)

§ 52.02 PRIVATE WELLS.

(A) No private wells for the extraction of subterranean water for use or consumption by humans shall be installed or constructed by any person, firm or corporation within the boundaries of the town, unless, in the opinion of the Town Council, it shall be economically impractical or otherwise not feasible for the extension of the town's water line to the property in question. Any permission by the Town Council for the installation or construction of a private well is subject to satisfaction of any other federal, state, or local statute, ordinance, resolution, regulation or rule and to the approval of any federal, state, or local governing body or governmental subdivision which shall have jurisdiction over the installation or construction.

(B) Any person, firm or corporation desiring to construct a well for the extraction of water for industrial or other uses, but not for human consumption, shall submit their application for a building permit to the Building Commissioner with plans, specifications, designs and other information whereupon the Building Commissioner may approve, modify, approve as modified or reject the application for a private well, provided, however, that no permit for the private well shall be approved unless adequate safeguards are installed and constructed to insure against human consumption of the water.

(C) This section shall be enforceable by injunction or other procedures in any court of competent jurisdiction.

(D) Any person, firm or corporation who shall violate this section in any part or fail to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$5 nor more than \$100 and each day that the violation or noncompliance continues shall constitute a second offense.
(Ord. 11-421, passed 9-6-11)

§ 52.03 EXTERNAL SHUT-OFF.

(A) The town owns the water service line from the main to the external shut off (curb stop or meter pit) usually located at the homeowners property line. It is the duty of the town to provide and maintain water service to the homeowner to the shut off.

(B) The homeowner owns the portion of the service line between the external shut off and their house. It is the homeowner's duty to provide and maintain their service line from the shut off to their house.
(Ord. 16-445, passed 5-2-16)

RATES AND CHARGES

§ 52.10 ESTABLISHMENT.

There shall be and there are hereby established for the use of and the service rendered by the water utility of the town, the following rates and charges, based on the use of water supplied by said waterworks system and to cover the cost of operation, maintenance, replacement, and debt service of said utility.

(A) ***Metered Rates Per Month***

Per 1,000 Gallons

First 7,000 gallons	\$6.86
Next 11,000 gallons	5.61
Next 18,000 gallons	4.79
Next 24,000 gallons	4.00
Next 40,000 gallons	3.59
Over 100,000 gallons	2.80

(B) Minimum Charge.

(1) Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates.

(2) <i>Meter Size</i>	<i>Minimum Monthly Charge</i>
$\frac{5}{8}$ in. - $\frac{1}{2}$ in.	\$ 16.00
1 in.	20.60
1 $\frac{1}{2}$ in.	27.45
2 in.	41.20
3 in.	59.25
4 in.	79.95
6 in.	133.25

(C) Fire Protection Service.

(1) Municipal hydrants — flat rate - per annum	\$30,000.00
(2) Private hydrants — per hydrant - per annum	\$750.00
(3) Private sprinklers.	
(a) 4 in.: Per annum	\$496.50
(b) 6 in.: Per annum	\$893.75
(c) 8 in.: Per annum	\$1,193.75

(D) Tap Charge. A tap charge shall be collected from each customer, prior to connection to the water system, in an amount equal to the cost of labor and material necessary for tapping the main and installation of service from the main to the curb stop and the cost of furnishing and installing a suitable water meter. The charge shall be the labor and material costs incurred.

(E) Collection and Deferred Payment Charges. All bills shall be due and payable monthly and bills unpaid more than 15 days following the date of billing shall include a collection charge of 10%. An additional service charge of \$10 shall be collected for reconnecting service that has been turned off for delinquent payment.

(F) Debt. All users of the Water Utility shall be required to pay a deposit to the Water Utility in an amount set from time to time by the Town Council. This deposit shall be a one-time payment and shall be transferable should the utility user move to a new residence served by the Water Utility. In addition, such deposits shall be applied to any delinquent utilities owing by the utility users, applied to the final utility bill and to the extent available, refunded to the user at the end of its use.

(Ord. 244, passed 2-7-83; Am. Ord. 296, passed 4-5-93; Am. Ord. 314, passed 8-28-95; Am. Ord. 318, passed 6-3-96; Am. Ord. 326 passed 5-5-97; Am. Ord. 00-355, passed 10-2-00; Am. Ord. 371-04, passed 11-1-04)

§ 52.11 METER READING; BILLING.

For the purpose of billing and collecting the charges for water use, the meters shall be read monthly and the users shall be billed monthly.

(Ord. 244, passed 2-7-83; Am. Ord. 296, passed 4-5-93)

DATE	DESCRIPTION	AMOUNT
1/1/19
2/1/19
3/1/19
4/1/19
5/1/19
6/1/19
7/1/19
8/1/19
9/1/19
10/1/19
11/1/19
12/1/19
1/1/20
2/1/20
3/1/20
4/1/20
5/1/20
6/1/20
7/1/20
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12/1/31

§ 51.070 NOTIFICATION OF UNUSUAL FLOWS OR WASTES ACCIDENTALLY DISCHARGED INTO SEWER SYSTEM.

Users of the treatment works shall immediately notify the town of any unusual flows or wastes that are discharged accidentally or otherwise to the sewer system.
(Ord. 275, passed 4-3-89) Penalty, see § 51.999

RATES AND CHARGES**§ 51.080 DEFINITIONS.**

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMMONIA (or NH-3N). Shall have the same meaning as defined in the Sewer Use Ordinance.

BOARD. The Board of Trustees of the Town of Mentone, or any duly authorized officials acting in its behalf.

BOD (or BIOCHEMICAL OXYGEN DEMAND). Shall have the same meaning as defined in the Sewer Use Ordinance.

CBOD (or CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND). Shall have the same meaning as defined in the Sewer Use Ordinance.

COD (or CHEMICAL OXYGEN DEMAND). Shall have the same meaning as defined in the Sewer Use Ordinance.

DEBT SERVICE COSTS. The average annual principal and interest payments on all proposed revenue bonds or other long-term capital debt.

EXCESSIVE STRENGTH SURCHARGE. An additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

INDUSTRIAL WASTES. The wastewater discharges from industrial, trade or business processes as distinct from employee wastes or wastes from sanitary conveniences.

MAY is permissive.

NPDES (NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM) PERMIT. Shall have the same meaning as defined in the Sewer Use Ordinance.

NORMAL DOMESTIC SEWAGE. As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences as distinct from industrial processes. For the purpose of determining surcharges, wastewater or sewage having an average daily concentration as follows:

- (1) S.S. (or suspended solids) not more than 50 mg/l; and
- (2) CBOD not more than 200 mg/l.

OPERATION AND MAINTENANCE COST. All costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related federal, state and local requirements. (These costs include replacement.)

OTHER SERVICE CHARGES. Tap charges, connection charges, area charges and other identifiable charges other than excessive strength surcharges.

PERSON. Any and all *PERSONS*, natural, or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

PHOSPHORUS. Shall have the same meaning as defined in the Sewer Use Ordinance.

REPLACEMENT COSTS. The expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

SEWAGE. Shall have the same meaning as defined in the Sewer Use Ordinance.

SEWER USE ORDINANCE. A separate and companion enactment to this subchapter, which regulates the connection to the use of public and private sewers.

SHALL is mandatory.

S.S. (OR SUSPENDED SOLIDS). Shall have the same meaning as defined in the Sewer Use Ordinance.

TOWN. The Town of Mentone acting by and through the Town Council.

USER CHARGES. A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of Public Law 92-500.

USER CLASS. The division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities, such as commercial, governmental, industrial, institutional and residential in the User Charge System.

(1) **COMMERCIAL USER.** Any establishment involved in a commercial enterprise, business or service which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(2) **GOVERNMENTAL USER.** Any federal, state or local governmental user of the wastewater treatment works.

(3) **INDUSTRIAL USER.** Any manufacturing or processing facility that discharges industrial waste to a wastewater treatment works.

(4) **INSTITUTIONAL USER.** An establishment involved in a social, charitable, religious and/or educational function which, based on a determination by the town, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

(5) **RESIDENTIAL USER.** A user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units and the like. (Ord. 274, passed 5-1-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.081 PERSONS SUBJECT TO CHARGES; CONFORMANCE TO APPLICABLE REGULATIONS.

Every person whose premises are served by said sewage works shall be charged for the service provided. These charges are established for each user class, as defined. In order that the sewage works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works. User charges shall be uniform in magnitude within a user class.

(A) User charges are subject to the rules and regulations adopted by the U. S. Environmental Protection Agency published in the Federal Register February 17, 1984 (40 CFR 35.2140). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected useful life of the sewage works equipment.

(B) The various classes of users of the treatment works for the purpose of this subchapter, shall be as follows:

- Class I — Residential;
- Commercial;
- Governmental;
- Institutional;
- Industrial.

(Ord. 274, passed 5-1-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.082 RATES ESTABLISHED.

For the use of the service rendered by sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate, or building that is connected with the town sanitary system or otherwise discharges sanitary sewage, industrial wastes, or other liquids, either directly or indirectly, into the sanitary sewage system of the town. Such rates and charges include user charges, debt service costs, excessive strength surcharges, and other service charges, which rates and charges shall be payable as hereinafter provided and shall be in an amount determined as follows:

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(A) The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use, plus a base charge based on the size of water meter installed except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month (or period equaling a month). The water usage schedule on which the amount of said rates and charges shall be determined is as follows:

All Class I Users

- (1) Treatment rate per 1,000 gallons of usage per month:

<i>USER CHARGE</i>	<i>DEBT SERVICE</i>	<i>TOTAL</i>
\$5.13	\$1.38	\$6.51

plus

(2) Base rate per month:

<i>WATER METER</i>	<i>USER CHARGE</i>	<i>DEBT SERVICE</i>	<i>TOTAL</i>
% in. - V_8 in.	\$16.40	\$2.45	\$18.85
1 in.	30.07	6.93	37.00
$1\frac{1}{8}$ in. - $1\frac{1}{4}$ in.	59.84	16.66	76.50
2 in.	97.76	29.14	126.90
3 in.	215.14	67.46	282.60
4 in.	378.13	120.37	498.50
6 in.	838.46	271.69	1,110.15
8 in.	1,488.80	484.55	1,973.35

(Am. Ord. 332, passed 8-26-97; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

(B) For users of the sewage works that have unmetered water users or accurate meter readings are not available, the monthly charge shall be determined by equivalent single-family dwelling units, except as herein provided. Sewage service bills shall be rendered once each month (or period equaling a month). The schedule on which said rates and charges will be determined is as follows:

	<i>MONTHLY RATE</i>		
	<i>USER CHARGE</i>	<i>DEBT SERVICE</i>	<i>TOTAL</i>
Residential: Single-family dwelling unit (based on 5,000 gallons)	\$42.04	\$9.36	\$51.40

(Am. Ord. 332, passed 8-26-97; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

(C) For the service rendered to the town, said town shall be subject to the same rates and charges established in harmony therewith.

(D) In order to recover the cost of monitoring industrial wastes, the town shall charge the user not less than \$30 per sampling event plus the actual cost for collecting and analyzing the sample(s) as determined by the town or by an independent laboratory. This charge will be reviewed on the same basis as all other rates and charges in this subchapter.

(Am. Ord. 332, passed 8-26-97; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.083 SPECIAL ALLOWANCES.

The quantity of water discharged into the sanitary sewage system and obtained from sources other than the utility that serves the town shall be determined by the town in such manner as the town shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; except as hereinafter provided in this section, the town may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the town that such quantities do not enter the sanitary sewage system.

(A) In the event a lot, parcel of real estate, or building other than a single-family dwelling unit discharging sanitary sewage, industrial wastes, water, or other liquids into the town's sanitary sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the town, and the water used thereon or therein is not measured by a water meter, or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rates or charges provided in this subchapter, the owner or other interested party shall, at his or her expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(B) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or liquids into the town's sanitary sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the town, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town. In order to ascertain the rates or charges, the owner or other interested parties shall, at his or her expense, install and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(C) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water, or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels or real estate, or buildings served through the single water meter.

(D) In the event two or more dwelling units such as mobile homes, apartments, or housekeeping rooms discharging sanitary sewage, water, or other liquids into the town's sanitary sewage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case, billing shall be for a single service in the manner set out elsewhere herein, except that an additional unit's charges shall be added thereto, in the amount of \$7.10 per month per dwelling unit over one served through the single water meter. In the case of mobile home courts, the number of mobile homes spaces available for rent plus any other dwelling units served through a meter. A dwelling unit shall be interpreted as a room, rooms, any other space, or spaces in which cooking facilities are provided.

(E) In the event a lot, parcel of real estate, or building discharging sanitary sewage, industrial wastes, water, or other liquids into the town's sanitary sewer system, either directly or indirectly, and uses water in excess of 15,000 gallons per month, and it can be shown to the satisfaction of the town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewage system, then the owner or other interested party shall, at his or her expense, install

and maintain meters, weirs, volumetric measuring devices, or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge. (Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.084 SURCHARGES BASED ON STRENGTH AND CHARACTER OF SEWAGE.

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the town shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The town shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the sanitary sewage system, in such manner, by such method, and at such times as the town may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the town at all times.

(A) Normal sewage domestic waste strength should not exceed a carbonaceous biochemical oxygen demand of 200 milligrams per liter of fluid, or suspended solids in excess of 50 milligrams per liter of fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:

(1) Rate Surcharge Based Upon Suspended Solids. There shall be an additional charge of \$1.92 per pound of suspended solids for suspended solids received in excess of 50 milligrams per liter of fluid.

(2) Rate Surcharge Based Upon CBOD. There shall be an additional charge of \$.51 per pound of carbonaceous biochemical oxygen demand for CBOD received in excess of 200 milligrams per liter of fluid.

(B) The determination of suspended solids, five-day carbonaceous biochemical oxygen demand, biochemical oxygen demand, ammonia-nitrogen, phosphorus, ammonia and COD contained in the waste shall be in accordance with the latest copy of *Standard Methods for the Elimination of Water, Sewage, and Industrial Waste* as written by the American Public Health Association, the American Waterworks Association, and the Water Pollution Control Federation, and in accordance with "Guidelines Establishing Test Procedures for Analysis of Pollutants," 40 CFR Part 136.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.085 BILLING PROCEDURE.

Such rates and charges shall be prepared, billed, and collected by the town in the manner by law and ordinance.

(A) The rates and charges for all users shall be prepared and billed monthly. Annually, each user shall be notified of the portion of the total billing charged for operation, maintenance, and replacement for that user during the preceding year.

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(B) (1) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required.

(2) The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the town for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(C) As is provided by statute, all rates and charges not paid by the 15th day of the month following receipt are hereby declared to be delinquent and a penalty of 10% of the amount of the rates and charges shall thereupon attach thereto.
(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.086 BIENNIAL REVIEW.

(A) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the town shall cause a study to be made within a reasonable period of time following the first two years of operation. Such study shall include, but not be limited to, an analysis of the cost associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the sewage works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements, and capital improvements to the wastewater treatment systems.

(B) Thereafter, on a biennial basis, within a reasonable period of time following the normal accounting period, the town shall cause a similar study to be made for the purpose of reviewing the fairness, equity, and proportionality of the rates and charges for sewage services on a continuing basis. Said studies shall be conducted by officers or employees of the town or by a firm of certified public accountants, or a firm of consulting engineers, which firms shall have experience in such studies, or by such combination of officers, employers, certified public accountants, or engineers as the town shall determine to be best under the circumstances. The town shall, upon completion of said study revise and adjust the rates and charges, as necessary, in accordance therewith in order to maintain the proportionality and sufficiency of the rates.
(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.087 CHARGES FOR CONNECTION TO SEWAGE WORKS; INSPECTION; FEE.

(A) The following connection charges are hereby established for connection to the Mentone Sewage Works by owners of property lying within the Mentone Sewage Works service area.

(1) The surcharge shall be based on the quantity of water used on or in the property or premises as determined by installed septic tank size. The schedule on which said surcharge will be determined is as follows:

<i>SEPTIC TANK SIZE</i>	<i>FACTOR</i>	<i>LUMPSUM SURCHARGE</i>
1,000 gallons	1.0	\$306
1,500 gallons	1.4	428
2,000 gallons	1.9	581
2,500 gallons	2.4	734
3,000 gallons	2.9	887
2,300 gallons	3.1	979
4,000 gallons	3.9	1,193

(2) The owner of any building which comes into existence after May 1, 1989, that is required by Sewer Use Ordinance No. 275 to connect to the public sewer prior to connecting to the sewer line shall pay:

(a) The above described lump sum surcharge;

(b) All costs incidental to the connection to the public sewer, including the cost of septic tank, excavation, backfill, and pavement replacement.

(B) The owner of any lot, parcel of real estate, or building connecting to the sewage works shall, prior to being permitted to make a connection, pay an inspection fee in the amount of \$30 for each connection.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.088 SPECIAL RATE CONTRACTS.

The Town Council is hereby further authorized to enter into special rate contracts with customers of the sewage works where clearly definable reduction in cost to the sewage works can be determined, and such reduction shall be limited to such reduced costs.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.089 TOWN MAY PROHIBIT DUMPING OF HARMFUL WASTES; PRETREATMENT OF WASTES REQUIRED.

The town is hereby authorized to prohibit dumping of wastes into the town's sewage system which, in its discretion, are deemed harmful to the operation of the sewage treatment works of the town, or to require method affecting pretreatment of said wastes to comply with the pretreatment standards included in the National Pollutant Discharge Elimination System (NPDES) Permit issued to the sewage works or as contained in the EPA General Pretreatment Regulations, 40 CFR Part 403 and any amendments thereto, or the Town's Pretreatment Program Plan.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.090 ENFORCEMENT OF BYLAWS AND REGULATIONS.

The town shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management of the town's sewage system, pumping stations, and sewage treatment works, for the construction and use of house sewers and connections to the sewage treatment works, the sewage collection system, and for the regulation, collection, and rebating and refunding of such rates and charges.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.091 RIGHT TO APPEAL.

That the rules and regulations promulgated by the town, after approval by the Town Council, shall among other things, provide for an appeal procedure whereby a user shall have the right to appeal a decision of the administrator of the sewage system and user charge system to the Town Council and that any decision concerning the sewage system or user charges of the Town Council may be appealed to the circuit court of the county under the appeal procedures provided for in the Indiana Administrative Adjudication Act.

(Ord. 275, passed 4-3-89; Am. Ord. 372-04, passed 11-4-04; Am. Ord. 07-386, passed 1-29-07; Am. Ord. 10-414, passed 6-21-10)

§ 51.092 RESIDENTIAL SPRINKLER CREDIT POLICY; POOL FILL CREDIT.

(A) In the months of June, July, and August a sewer credit can be obtained for watering yards for residential customers only. The water usage from the months of January, February, and March, or three months of normal usage, will be averaged. If the water usage for one of the said three months, when sprinkling was done, is above the average of the three winter months the difference will be adjusted off of the sewer portion of the bill.

(B) *Example:*

Average from January, February, and March = 4,000 gallons;

Water used in August = 6,000 gallons;

Adjusted off sewer bill: 2,000 gallons.

(C) If the sprinkler credit is to be obtained, the customer must inform the Clerk/Treasurer by day 20 of the month that the credit will be used, and be a residential customer. This can be done for the three months of June, July, and August.

(D) *Pool fill credit.* There is a sewer credit for filling a swimming pool. The amount of water put into a swimming pool can be adjusted off of the sewer bill.

(Res. 11-419, passed 3-7-11)

§ 51.997 ADMINISTRATIVE RELIEF.

Any person who believes himself aggrieved through the enforcement of §§ 51.001 through 51.070 has the right to seek administrative relief before the town.
(Ord. 275, passed 4-3-89)

§ 51.998 NOTICE OF VIOLATION; LIABILITY.

(A) Any person found to be violating any provisions of this chapter shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(B) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss or damage occasioned by the town by reason of such violation.
(Ord. 275, passed 4-3-89)

§ 51.999 PENALTY.

Any person who shall continue any violation of this chapter beyond the time limit provided for in § 51.998 division (A) shall be guilty of a violation and on conviction thereof shall be fined in an amount not exceeding \$100 for each violation. Each day in which any violation shall continue shall be deemed a separate offense.
(Ord. 275, passed 4-3-89)

CHAPTER 52: WATER

Section

General Provisions

- 52.01 Acceptance of management responsibilities in accordance with water quality management planning requirements
- 52.02 Private wells

Rates and Charges

- 52.10 Establishment
- 52.11 Meter reading; billing

GENERAL PROVISIONS

§ 52.01 ACCEPTANCE OF MANAGEMENT RESPONSIBILITIES IN ACCORDANCE WITH WATER QUALITY MANAGEMENT PLANNING REQUIREMENTS.

The town desires to be the approved designated management agency for the control of water pollution sources within its area of legal jurisdiction.
(Ord. 264, passed 8-3-87)

§ 52.02 PRIVATE WELLS.

(A) No private wells for the extraction of subterranean water for use or consumption by humans shall be installed or constructed by any person, firm or corporation within the boundaries of the town, unless, in the opinion of the Town Council, it shall be economically impractical or otherwise not feasible for the extension of the town's water line to the property in question. Any permission by the Town Council for the installation or construction of a private well is subject to satisfaction of any other federal, state, or local statute, ordinance, resolution, regulation or rule and to the approval of any federal, state, or local governing body or governmental subdivision which shall have jurisdiction over the installation or construction.

(B) Any person, firm or corporation desiring to construct a well for the extraction of water for industrial or other uses, but not for human consumption, shall submit their application for a building permit to the Building Commissioner with plans, specifications, designs and other information whereupon the Building Commissioner may approve, modify, approve as modified or reject the application for a private well, provided, however, that no permit for the private well shall be approved unless adequate safeguards are installed and constructed to insure against human consumption of the water.

(C) This section shall be enforceable by injunction or other procedures in any court of competent jurisdiction.

(D) Any person, firm or corporation who shall violate this section in any part or fail to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$5 nor more than \$100 and each day that the violation or noncompliance continues shall constitute a second offense.
(Ord. 11-421, passed 9-6-11)

RATES AND CHARGES

§ 52.10 ESTABLISHMENT.

There shall be and there are hereby established for the use of and the service rendered by the water utility of the town, the following rates and charges, based on the use of water supplied by said waterworks system and to cover the cost of operation, maintenance, replacement, and debt service of said utility.

(A) Metered Rates Per Month

Per 1,000 Gallons

First 7,000 gallons	\$6.86
Next 11,000 gallons	5.61
Next 18,000 gallons	4.79
Next 24,000 gallons	4.00
Next 40,000 gallons	3.59
Over 100,000 gallons	2.80

(B) Minimum Charge.

(1) Each user shall pay a minimum charge in accordance with the following applicable size of meter installed, for which the user will be entitled to the quantity of water set out in the above schedule of rates.

(2)

Meter Size

Minimum Monthly Charge

$\frac{5}{8}$ in. - $\frac{3}{4}$ in.	\$ 16.00
1 in.	20.60
$\frac{1}{2}$ in.	27.45
2 in.	41.20
3 in.	59.25
4 in.	79.95
6 in.	133.25

(C) Fire Protection Service.

(1) Municipal hydrants — flat rate - per annum	\$30,000.00
(2) Private hydrants — per hydrant - per annum	\$750.00
(3) Private sprinklers.	
(a) 4 in.: Per annum	\$496.50
(b) 6 in.: Per annum	\$893.75
(c) 8 in.: Per annum	\$1,193.75

(D) Tap Charge. A tap charge shall be collected from each customer, prior to connection to the water system, in an amount equal to the cost of labor and material necessary for tapping the main and installation of service from the main to the curb stop and the cost of furnishing and installing a suitable water meter. The charge shall be the labor and material costs incurred.

(E) Collection and Deferred Payment Charges. All bills shall be due and payable monthly and bills unpaid more than 15 days following the date of billing shall include a collection charge of 10%. An additional service charge of \$10 shall be collected for reconnecting service that has been turned off for delinquent payment.

(F) Debt. All users of the Water Utility shall be required to pay a deposit to the Water Utility in an amount set from time to time by the Town Council. This deposit shall be a one-time payment and shall be transferable should the utility user move to a new residence served by the Water Utility. In addition, such deposits shall be applied to any delinquent utilities owing by the utility users, applied to the final utility bill and to the extent available, refunded to the user at the end of its use. (Ord. 244, passed 2-7-83; Am. Ord. 296, passed 4-5-93; Am. Ord. 314, passed 8-28-95; Am. Ord. 318, passed 6-3-96; Am. Ord. 326 passed 5-5-97; Am. Ord. 00-355, passed 10-2-00; Am. Ord. 371-04, passed 11-1-04)

§ 52.11 METER READING; BILLING.

For the purpose of billing and collecting the charges for water use, the meters shall be read monthly and the users shall be billed monthly.
(Ord. 244, passed 2-7-83; Am. Ord. 296, passed 4-5-93)

1. The first item is the...
2. The second item is the...
3. The third item is the...
4. The fourth item is the...
5. The fifth item is the...
6. The sixth item is the...
7. The seventh item is the...
8. The eighth item is the...
9. The ninth item is the...
10. The tenth item is the...

The first item is the...

The second item is the...

The third item is the...

The fourth item is the...

CHAPTER 53: STORMWATER

Section

53.01 Storm water utility services

§ 53.01 STORM WATER UTILITY SERVICES.

The town has the duty to maintain the storm water utility services for the residents and businesses of the Town of Mentone.

(A) The owners of every residential home shall be assessed a fee of \$2 per month for the removal of storm water.

(B) Each business, commercial or industrial, shall be assessed a fee of \$5 per month for the removal of storm water.

(C) The said payments shall be made on a monthly basis concurrently with the payment of the water bill.

(Ord. 17-452, passed 10-2-17)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC SCHEDULES
- 72. PARKING SCHEDULES

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Definitions
- 70.02 Speed limits
- 70.99 Penalty

§ 70.01 DEFINITIONS.

For the purpose of this Traffic Code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

STREET or HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. However, the term **STREET** or **HIGHWAY** shall not be intended to include highways maintained by the State of Indiana.

VEHICLE. Except as otherwise provided in IC 9-13-2-196, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway. The term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, school bus, a recreational vehicle, a trailer or semitrailer used in the transportation of a watercraft, or a motor driven cycle. (IC 9-13-2-196) (Ord. 252, passed 3-4-85)

§ 70.02 SPEED LIMITS.

No person shall drive a vehicle on a street or highway within the corporate limits of the town at a speed greater than 20 miles per hour.
(Ord. 252, passed 3-4-85)

§ 70.99 PENALTY.

Any person violating the provisions of this Traffic Code shall, upon conviction, be fined in any amount not less than \$1 nor more than \$100 for each offense.
(Ord. 252, passed 3-4-85)

Cross reference:

Ordinance Violation Bureau penalties, see § 36.04

Mentone - Traffic Code

CHAPTER 71: TRAFFIC SCHEDULES

Schedule

- I. Stop intersections
- II. U-turns prohibited
- III. Yield streets

SCHEDULE I. STOP INTERSECTIONS.

(A) Four-way stops. The following intersections shall be four-way stop intersections. It is unlawful for any vehicle approaching the intersections to proceed into and through the intersections without first coming to a full stop prior to entering any such intersection. Suitable signs designating the intersections as four-way stop intersections shall be erected upon the approaches to said intersections so as to be clearly visible by any person operating a motor vehicle into said intersections.

<i>Intersection</i>	<i>Directions</i>	<i>Ord. No.</i>	<i>Date</i>
Harrison and Broadway Streets	All	258	8-4-86
High and Morgan Streets	All	182; 258	11-3-69; 8-4-86
Jackson and Broadway Streets	All	258	8-4-86
Jackson and Harvard Streets	All	207; 258	5-3-76; 8-4-86
Tucker and Jackson Streets	All	366-04	8-3-04
Walnut and Jefferson Streets	All	258	8-4-86
Yale and Jackson Streets	All	258	8-4-86
Yale and Harrison Streets	All	366-04	8-3-04

(B) Three-way stops. The following intersections shall be three-way stop intersections. All motor vehicles approaching the intersections from the directions indicated shall stop before entering the same. It shall be unlawful for any vehicle approaching these intersections to proceed into and through said intersections without first coming to a full stop prior to entering said intersections. Suitable signs designating the intersections as three-way stop intersections shall be erected upon the approaches to said intersections so as to be clearly visible by any person operating a motor vehicle into said intersections.

Mentone • Traffic Code

<i>Intersection</i>	<i>Directions</i>	<i>Ord. No.</i>	<i>Date</i>
Franklin and Maple Streets	All	366-04	8-3-04

(C) Two-way stops. The following intersections shall be two-way stop intersections. All motor vehicles approaching the intersections from the directions indicated shall stop before entering the same. It shall be unlawful for any vehicle approaching these intersections to proceed into and through said intersections without first coming to a full stop prior to entering said intersection. Suitable signs designating the intersections as two-way stop intersections shall be erected upon the approaches to said intersections so as to be clearly visible by any person operating a motor vehicle into said intersections.

<i>Intersection</i>	<i>Directions</i>	<i>Ord. No.</i>	<i>Date</i>
Harrison and Morgan Streets	North and South	252	3-4-85
Harrison and Tucker Streets	North and South	252	3-4-85
Jackson and Princeton Streets	North and South	366-04	8-3-04
Maple and Broadway Streets	North and South	252	3-4-85
Morgan and Jackson Streets	North and South	252	3-4-85
Tucker and Maple Streets	North and South	366-04	8-3-04
Walnut and Monroe Streets	East and West	258	8-4-86
Walnut and Washington Streets	North and South	366-04	8-3-04

(D) One-way stops. The following intersections shall be one-way stop intersections. All motor vehicles approaching the intersections from the direction indicated shall stop before entering the same. It shall be unlawful for any vehicle approaching these intersections to proceed into and through said intersections without first coming to a full stop prior to entering said intersection. Suitable signs designating the intersections as one-way intersections shall be erected upon the approaches to said intersections so as to be clearly visible by any person operating a motor vehicle into said intersections.

<i>Intersection</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date</i>
Broadway and Jefferson Streets	South on Broadway Street	366-04	8-3-04
Franklin and High Streets	West on High Street	366-04	8-3-04
Jefferson and Morgan Streets	North on Morgan	00-354	3-6-00
Morgan and Maple Streets	East on Maple Street	366-04	8-3-04

Traffic Schedules

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<i>Intersection</i>	<i>Direction</i>	<i>Ord. No.</i>	<i>Date</i>
Morgan and Monroe Streets	East on Monroe Street	366-04	8-3-04
North Oak Street and Jackson Streets	South on North Oak Street	366-04	8-3-04
Oak and Jefferson Streets	West on Jefferson	252; 366-04	3-4-85; 8-3-04
Oak and Monroe Streets	West on Monroe	252; 366-04	3-4-85; 8-3-04
Tucker and Jefferson Streets	South on Tucker Street	366-04	8-3-04
Tucker and Monroe Streets	North on Tucker Street	366-04	8-3-04
Walnut and Jackson Streets	South on Walnut Street	08-398	6-2-08
Washington and Oak Streets Street (Public Park)	East on Washington	366-04	8-3-04

(Ord. 252, passed 3-4-85) Penalty, see § 70.99

SCHEDULE II. U-TURNS PROHIBITED.

U-turns are prohibited in the following locations. Suitable signs designating no U-turns shall be erected so as to be clearly visible by any person operating a motor vehicle in said locations.

<i>Street</i>	<i>Between</i>	<i>Ord. No.</i>	<i>Date</i>
Main Street	Morgan and Tucker Streets	207; 252; 366-04	5-3-76; 3-4-85; 8-3-04

(Ord. 252, passed 3-4-85) Penalty, see § 70.99

SCHEDULE III. YIELD INTERSECTIONS.

The following intersections are designated as yield intersections. All traffic on the preferential streets shall have the right-of-way over the traffic on the yield streets. Yield signs shall be erected at the intersections herein designated as yield intersections.

<i>Yield Street</i>	<i>Preferential Street</i>	<i>Ord. No.</i>	<i>Date</i>
Eisenhower Street	Walnut Street	366-04	8-3-04
High Street	Broadway Street	157	12-6-60
High Street	Tucker Street	157	12-6-60
Jefferson Street	Morgan Street	366-04	8-3-04
Monroe Street	Broadway Street	366-04	8-3-04
Oak Street	Washington Street	366-04	8-3-04
Walnut Street	Jackson Street	157; 252	12-6-60; 3-4-85
Yale Street	Harrison Street	157; 252	12-6-60; 3-4-85

(Ord. 157, passed 12-6-60) Penalty, see § 70.99

Mentone - Traffic Code			
Code	Description	Code	Description
100	100 - 100	200	200 - 200
101	101 - 101	201	201 - 201
102	102 - 102	202	202 - 202
103	103 - 103	203	203 - 203
104	104 - 104	204	204 - 204
105	105 - 105	205	205 - 205
106	106 - 106	206	206 - 206
107	107 - 107	207	207 - 207
108	108 - 108	208	208 - 208
109	109 - 109	209	209 - 209
110	110 - 110	210	210 - 210
111	111 - 111	211	211 - 211
112	112 - 112	212	212 - 212
113	113 - 113	213	213 - 213
114	114 - 114	214	214 - 214
115	115 - 115	215	215 - 215
116	116 - 116	216	216 - 216
117	117 - 117	217	217 - 217
118	118 - 118	218	218 - 218
119	119 - 119	219	219 - 219
120	120 - 120	220	220 - 220
121	121 - 121	221	221 - 221
122	122 - 122	222	222 - 222
123	123 - 123	223	223 - 223
124	124 - 124	224	224 - 224
125	125 - 125	225	225 - 225
126	126 - 126	226	226 - 226
127	127 - 127	227	227 - 227
128	128 - 128	228	228 - 228
129	129 - 129	229	229 - 229
130	130 - 130	230	230 - 230
131	131 - 131	231	231 - 231
132	132 - 132	232	232 - 232
133	133 - 133	233	233 - 233
134	134 - 134	234	234 - 234
135	135 - 135	235	235 - 235
136	136 - 136	236	236 - 236
137	137 - 137	237	237 - 237
138	138 - 138	238	238 - 238
139	139 - 139	239	239 - 239
140	140 - 140	240	240 - 240
141	141 - 141	241	241 - 241
142	142 - 142	242	242 - 242
143	143 - 143	243	243 - 243
144	144 - 144	244	244 - 244
145	145 - 145	245	245 - 245
146	146 - 146	246	246 - 246
147	147 - 147	247	247 - 247
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149	149 - 149	249	249 - 249
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152	152 - 152	252	252 - 252
153	153 - 153	253	253 - 253
154	154 - 154	254	254 - 254
155	155 - 155	255	255 - 255
156	156 - 156	256	256 - 256
157	157 - 157	257	257 - 257
158	158 - 158	258	258 - 258
159	159 - 159	259	259 - 259
160	160 - 160	260	260 - 260
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162	162 - 162	262	262 - 262
163	163 - 163	263	263 - 263
164	164 - 164	264	264 - 264
165	165 - 165	265	265 - 265
166	166 - 166	266	266 - 266
167	167 - 167	267	267 - 267
168	168 - 168	268	268 - 268
169	169 - 169	269	269 - 269
170	170 - 170	270	270 - 270
171	171 - 171	271	271 - 271
172	172 - 172	272	272 - 272
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365	365 - 365	465	

CHAPTER 72: PARKING SCHEDULES

Schedule

- I. Parking prohibited at all times
- II. Parking time limited

SCHEDULE I. PARKING PROHIBITED AT ALL TIMES.

No person shall park or leave standing any vehicle in the following locations.

<i>Street</i>	<i>Between</i>	<i>Ord. No.</i>	<i>Date</i>
Morgan Street	Maple and High Streets	240; 252	7-5-82; 3-4-85

(Ord. 252, passed 3-4-85) Penalty, see § 70.99

SCHEDULE II. PARKING TIME LIMITED.

(A) Parking shall be limited to two hours in the following locations.

<i>Street</i>	<i>Description</i>	<i>Times</i>	<i>Ord. No.</i>	<i>Date</i>
Main Street	Between Morgan Street and Tucker Street	From 8:00 a.m. to 8:00 p.m., except Sundays and legal holidays	163	12-3-62

(B) The Town Council shall cause areas heretofore designated in the town to be marked with suitable signs to be erected in conformity with the provisions of division (A), which signs shall bear the legend "Two Hour Parking."

(C) Penalty.

(1) Any person violating any provision of this schedule shall, upon conviction, forfeit and pay a fine in an amount not to exceed \$50, said forfeitures or fines to be assessed as designated in the following schedule:

(a) A fine of \$5 for each violation of this schedule if said fine is paid within ten days of the violation; or

(b) A fine of \$25 for each violation of this schedule if said fine is paid after ten days but prior to 30 days following said violation; or

(c) A fine not to exceed \$50 upon conviction of non-payment or evasion of traffic citations issued and not paid for more than 30 days following said violation.

(2) The fines assessed in this division (C) shall be paid to the Clerk-Treasurer of the town and shall be paid into the general fund of the town. The persons violating this schedule shall pay said fines to the Clerk-Treasurer or to the Town Marshall, who shall receipt therefor. In default of said payment, the town may by any officer thereof file its complaint against said violator to recover the fines provided for herein before any Court of competent jurisdiction in Kosciusko County. (Ord. 163, passed 12-3-62; Am. Ord. 277, passed 9-11-89; Am. Ord. 07-390, passed 4-2-07)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ABANDONED VEHICLES
- 91. ANIMALS
- 92. CIVIL EMERGENCIES
- 93. NUISANCES
- 94. STREETS AND SIDEWALKS
- 95. FAIR HOUSING
- 96. BICYCLES, SKATEBOARDS, SKATES, AND SCOOTERS
- 97. GARAGE SALES

CHAPTER 90: ABANDONED VEHICLES

Section

- 90.01 Definitions
- 90.02 Abandonment of vehicles prohibited
- 90.03 Leaving of wrecked, non-operating vehicle on street prohibited
- 90.04 Disposition of wrecked or discarded vehicles
- 90.05 Impoundment of vehicles

- 90.99 Penalty

§ 90.01 DEFINITIONS.

For the **purpose** of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY. Any real property within the town which is not a street or highway.

STREET or HIGHWAY. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

VEHICLE. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (Ord. 171, passed 6-6-66)

§ 90.02 ABANDONMENT OF VEHICLES PROHIBITED.

No person shall abandon any vehicle within the town and no person shall leave any vehicle at any place within the town for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(Ord. 171, passed 6-6-66) Penalty, see § 90.99

§ 90.03 LEAVING OF WRECKED, NON-OPERATING VEHICLE ON STREET PROHIBITED.

No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street or highway within the town.

(Ord. 171, passed 6-6-66) Penalty, see § 90.99

§ 90.04 DISPOSITION OF WRECKED OR DISCARDED VEHICLES.

No person in charge or control of any property within the town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property longer than 48 hours; and no person shall leave any such vehicle on any property within the town for a longer time than 24 hours; except that this chapter shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(Ord. 171, passed 6-6-66) Penalty, see § 90.99

§ 90.08 IMPOUNDMENT OF VEHICLES.

The Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, or any person designated by them, are hereby authorized to remove or have removed any vehicle left at any place within the town which reasonably appears to be in violation of this chapter or lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with state law.

(Ord. 171, passed 6-6-66; Am. Ord. 277, passed 9-11-89)

§ 90.99 PENALTY.

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation and shall be fined in an amount not exceeding \$100. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 171, passed 6-6-66)

CzoBB-ZB/ermce:

Ordinance Violation Bureau penalties, see § 36.04

CHAPTER 91: ANIMALS

Section

General Provisions

- 91.01 Definitions
- 91.02 Public nuisances
- 91.03 Interfering with enforcement
- 91.04 Biting animals

Animal Care Regulations

- 91.15 Shelter, food and water
- 91.16 Hitching or tying
- 91.17 Vaccination; medical care
- 91.18 Sanitation
- 91.19 Wild, farm, or exotic animals
- 91.20 Restraint
- 91.21 Cruelty; abandonment
- 91.22 Poisonous bait
- 91.23 Motor vehicle caused injuries
- 91.24 Animals in vehicles
- 91.25 Animals in heat
- 91.26 Puppies and kittens
- 91.27 Destruction of animals
- 91.28 Lost or stray animals

Dogs

- 91.40 Running at large prohibited
- 91.41 Impoundment of dogs at large
- 91.42 Rabies immunization required
- 91.43 Allowing dogs to injure human beings
- 91.44 Spread of disease; special proclamation
- 91. 45 Destruction of rabid dog
- 91.46 Potentially dangerous dogs

Cats

- 91.60 Running at large prohibited
- 91.61 Impoundment of cats at large
- 91.62 Rabies immunization required
- 91.63 Allowing cats to injure human beings

- 91.99 Penalty

GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. To deposit, leave, drop off or otherwise dispose of any live domestic animal without providing immediate human care on any public or private property.

ADB JL American Doer Breeders Association.

AGENT. Person or persons 18 years or older authorized by an owner to act in the owner's behalf.

AJLC. American Kennel Club.

ALTERED ANIMAL. Any animal that has been ojerated on to prevent it from procreating.

ANIMAL. Any live non-human vertebrate creature, domestic, wild or exotic.

ANIMAL CARE FACILITY. An agency charged with housing animals picked up in violation of this chapter.

ANIMAL CONTROL COMMISSION. The Town Council.

ANIMAL CONTROL OFFICER. Persons authorized to carry out the provisions of this chapter.

ANIMAL SHELTER. A facility operated by the town or any facility operated by a humane society, or facility operated by authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

AT-LARGE. Any animal that is not under restraint. IC 15-2.1-21-8 addresses recklessly permitting a domestic animal to run at large and defines it as a Class B misdemeanor.

ATTACK DOGS. Dogs trained to attack upon command or those who have been trained to attack.

AUCTIONS Any place or facility where animals cure regularly bought, sold or traded, except for those facilities otherwise defined in this chapter or state law.

BITE To seize or cut with the teeth.

BREEDER Any person or for-profit business or corporation which harbors dogs and allows or causes those dogs to procreate for the purpose of selling said offspring.

CIRCUS. Includes performances given by traveling companies on vacant lots with tents, or some other kind of temporary enclosure, where performances are given for a fee. Performances may include, but are not limited to: trained animal acts, races, feats of horsemanship, acrobatics, strength, trapeze acts or clowns. Circuses and carnivals are also subject to the licensing provisions set forth in § 91.46.

CRIMINAL TRESPASS. As defined in IC 35-43-2-2, means a person who:

- (1) Not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or his agent;
- (2) Not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or his agent;
- (3) Accompanies another person in a vehicle with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) Knowingly or intentionally interferes with the possession or use of the property of another person without his consent;
- (5) Not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without his consent; or
- (6) Knowingly or intentionally:
 - (a) Travels by train without lawful authority or the railroad carrier's consent; and
 - (b) Rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent.

DOMESTIC ANIMAL. As defined in IC 15-2.1-2-15, means any animal that is a member of one of the following species:

Dog (Canis Familiaris)	Mouse (Mus Musculus)
Cat (Felis Cattus or Felis Domesticus)	Rat (Rattus)
Cattle (Bos Domesticus or Bos Taurus or Bos Indicus)	Guinea Pig (Cavis Procellus)
Horse (Equus Caballus)	Chinchilla (Chincilla Langier)
Donkey (Equus Asinus)	Hamster (Mesocricetus Auratus)
Pig (Sus Scroffa)	Gerbil (Gerbillus)
Sheep (Ovis Aries)	Mink
Goat (Capra Hicus)	Cow or Ox (Bovine)
Rabbit (Oryctolagus Cuniculuc)	Ferret

EXOTIC ANIMAL. Any animal whose normal native habitat is not indigenous to the continental United States, excluding Alaska and Hawaii, except fish and fur bearing animals commercially bred for the furrier trade and birds defined under federal regulations, and non-poisonous snakes and reptiles.

EXPOSED TO RABIES. Any human or non-human warm blooded mammal that has been bitten or in contact with any other animal known or reasonably suspected to have been infected with rabies.

FIGHT. A conflict between two or more animals but does not include a conflict that is unorganized or accidental. IC 35-46-3-4 defines "animal fighting contests."

FOWL. Any kind of wild or domestic bird, excluding homing or racing pigeons, canaries, parrots or similar types of birds kept in cages.

GUIDE DOGS. Dogs trained to assist the handicapped.

HARBORING. The actions of any person that permit any animal habitually to remain or ledge or to be fed within his home, store, enclosure, yard or place or business or any premises on which such person resides or controls. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days.

HUMANE OFFICER Any person and/or agency designated by the State of Indiana, Kosciusko County or the Town of Mentone, as the person who is qualified to perform the duties required by the law of this town and state regarding animals.

K-9 PATROL DOGS OR POLICE DOGS. A professionally trained dog used by law enforcement officers for law enforcement purposes and activities.

KENNEL. Any premises wherein any person engages in the business or boarding, breeding, buying, letting or keeping of more than three dogs for hire, training for fee, or selling, and which is zoned for such commercial purpose.

LEASH. A cord, chain, rope, strap or other such physical restraint.

MUZZLE. A device constructed of strong, soft material or a metal muzzle. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

NIP. To pinch or squeeze with teeth with no breaking of skin or tissue.

OWNER Any person 18 years or older owning or harboring one or more animals.

PERFORMING ANIMAL EXHIBITION. Any spectacle, display, act or event other than circuses in which performing animals are used.

PET. Any animal kept for pleasure rather than utility.

PETSHOP. Any person, group of persons, partnership or corporation whether operated separately or in connection with another business enterprise.

POTENTIALLY DANGEROUS DOG. Any dog that when unprovoked; inflicts bite(s) on a human, or has a history documented with a public agency of biting or attacking humans or domestic animals, but shall not include K-9 patrol dogs or police dogs, or an animal specifically "attack trained" or a guard or watch dog.

PUBLIC NUISANCE. Any animal or animals which:

- (1) Interferes with passersby or passing vehicles;
- (2) Attacks other animals or persons;

- (3) Is at-large;
- (4) Damages private or public property;
- (5) Causes frequent or long continued noises or other sounds common to its species which disturbs the comfort and repose of any person in the immediate neighborhood;
- (6) Causes foul or noxious odors which offend residents in the neighborhood; or
- (7) Trespasses on the private property of persons other than the owner of the dog.

RABIES VACCINATION. The injection, by a licensed veterinarian, of a dog, cat or other animal with a rabies vaccine licensed by the U.S.D.A. and approved by the Indiana State Board of Health.

RESTRAINT. The securing of an animal by a leash or securely confining it within the real property limits of its owner or agent.

RIDING SCHOOL OR STABLE. Any place that has available for hire, boarding, and/or riding instruction, any horse, pony, donkey, mule or burro.

RODEO. A performance featuring bronco riding, steer wrestling, calf roping, greased pig contest, or bull riding.

STRAY. Any animal that is not under restraint and upon reasonable inquiry by a humane officer does not appear to have an owner.

V.K.C. United Kennel Club.

UNCONFINED POTENTIALLY DANGEROUS DOG. A potentially dangerous dog which is not securely confined indoors, or not under restraint, or not confined indoors, or not under restraint, or not confined in a securely enclosed and locked pen or structure upon the premises of the owner or agent of such dog.

UNPROVOKED. Without provocation, lacking provocation, incitement or stimulation.

U.S.D.A. United States Department of Agriculture.

VETERINARIAN. Any person licensed and accredited to practice veterinary medicine in the State of Indiana.

VICIOUS ANIMAL. Any animal that has, without provocation, attacked a human being or other animal, or an animal that by its behavior constitutes an immediate and serious physical or health threat to human beings or animals, or any animal which has previously attacked or bitten any human being or other animal on two or more reported occasions, or any potentially dangerous dog.

WILD ANIMAL. Any animal not a domestic or exotic animal, with the exception of small, non-poisonous aquatic or amphibious animals and small cage birds, which are normally found in a wild state.

ZOOLOGICAL PARK. Any facility, other than a pet shop or kennel displaying or exhibiting one or more species or non-domesticated animals operated by a person, partnership, corporation or governmental agency and is properly zoned for such use.
(Ord. 312, passed 7-3-95)

Editor's Note:

IC 15-2.1-2-15 and IC 15-2.1-21-8 are repealed by 2008 Public Law 2, § 83

§ 91.02 PUBLIC NUISANCES.

No person shall own or harbor a public nuisance as defined in this chapter. The animal control officer may take steps immediately to correct the situation either through issuance of a citation or impounding the animal if no owner or agent can be found at the time of disturbance.
(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.03 INTERFERING WITH ENFORCEMENT.

No person shall interfere with an animal control officer in the pursuit of his or her duties as such officer.
(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.04 BITING ANIMALS.

(A) The person responsible for any animal which has bitten a person must report the incident to the animal control shelter. Upon receiving the report, the animal shall be quarantined for ten days with the place of confinement to be within the discretion of an animal control officer. During the quarantine period, the animal is to be securely confined and kept from contact with any other animal or person.

(B) Except when necessary to preserve the animal for examination or for the protection of a person, no person other than an animal control officer shall kill or cause to be killed any animal which has bitten a human within the preceding ten days.
(Ord. 312, passed 7-3-95) Penalty, see § 91.99

ANIMAL CARE REGULATIONS

§ 91.15 SHELTER, FOOD AND WATER.

(A) No person shall confine or allow an animal to remain outside without access to appropriate shelter from the elements.

(B) All animals shall have fresh, potable drinking water and shall be provided with food that is nutritional for that species.
(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.16 HITCHING OR TYING.

No animal shall be restrained outside the immediate presence of its owner by any rope, chain or cord that is directly attached to the animal's neck or choke collar. Animals that must be so restrained must wear a properly fitted collar or harness with the tying device properly attached to it.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.17 VACCINATION; MEDICAL CARE.

(A) Cats and dogs over the age of six months must be vaccinated by a licensed veterinarian against rabies, and must wear a tag at all times attached to a properly fitted collar or harness.

(B) All animals shall be provided with necessary medical care in addition to the required rabies vaccination.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.18 SANITATION.

(A) Persons responsible for an animal shall immediately remove the animal's excrement from public lands or from the property of another. This paragraph shall not apply to a blind person accompanied by a guide dog.

(B) The area of confinement of an animal shall be kept in a sanitary manner. The persons responsible for the animal shall maintain all animal areas as necessary to prevent odor and health or sanitation problems.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.19 WILD, FARM OR EXOTIC ANIMALS.

No wild, farm or exotic animal shall be kept within the town.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.20 RESTRAINT.

All animals shall be properly restrained as defined in this chapter.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.21 CRUELTY; ABANDONMENT.

(A) No person shall abuse, beat, cruelly treat, neglect, torment, overload or overwork an animal.

(B) Animals found in cruel, abusive or neglectful situations may be impounded. A person may reclaim an animal in the custody of the animal control shelter upon providing proof of ownership and payment to the animal control shelter of redemption and service and medical fees. Animals not claimed

within 72 hours shall become the property of the animal control shelter and may be placed for adoption or humanely euthanized.

(C) No person shall abandon or cause to be abandoned any animal anywhere within the town limits. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.22 POISONOUS BAIT.

No person shall set any type of poisonous substance or bait for the purpose of poisoning any domestic animal. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.23 MOTOR VEHICLE CAUSED INJURIES.

Any person operating a motor vehicle who causes injury or death to an animal shall immediately notify the owner or animal control shelter of the location of the animal. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.24 ANIMALS IN VEHICLES.

No animal shall be left unattended in a vehicle when the conditions in the vehicle would constitute a health hazard to the animal. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.25 ANIMALS IN HEAT.

Every female dog or cat in heat shall be confined in a secure building or enclosure so as to prevent conception, except during instances of planned breeding. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.26 PUPPIES AND KITTENS.

No puppy or kitten which is under the age of eight weeks may be offered for sale, trade or be given away. A puppy or kitten, or litter or litters, less than eight weeks of age may be taken to the animal control shelter. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.27 DESTRUCTION OF ANIMALS.

No person may destroy any domestic animal within the town limits, excepting only the following:

- (A) Animal control officers;
- (B) Licensed veterinarian;

(C) Persons acting in immediate self-protection; and

(D) Police officers.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

§ 91.28 LOST OR STRAY ANIMALS.

Persons finding a stray animal shall immediately notify the animal control shelter and surrender the animal to an animal control officer. At the discretion of an animal control officer, the animal may be kept by the finder to enable the finder an opportunity to return the animal to its rightful owner.

(Ord. 312, passed 7-3-95) Penalty, see § 91.99

DOGS

§ 91.40 RUNNING AT LARGE PROHIBITED.

The owner or keeper of any dog within the town is hereby required to restrain such dog from running at large, and it shall be unlawful to suffer or permit any dog to run at large on any of the streets, alleys, sidewalks, public places or public grounds within the limits of the town.

(Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.41 IMPOUNDMENT OF DOGS AT LARGE.

It shall be the duty of the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, to take into custody any dog found to be roaming the streets and/or alleys, or other public places unattended by the owner, the owner's agent or custodian, and to place such dog in the town dog pound.

(Ord. 249, passed 4-2-84; Am. Ord. 277, passed 9-11-89)

§ 91.42 RABIES IMMUNIZATION REQUIRED.

It shall be unlawful for any person to harbor any dog which is over the age of six months and which is not presently immunized against rabies.

(Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.43 ALLOWING DOGS TO INJURE HUMAN BEINGS PROHIBITED.

No person shall harbor a dog which is over six months of age and is not immunized against rabies and allow such dog to run loose, with the result that bodily injury is inflicted upon a human being.

(Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.44 SPREAD OF DISEASE; SPECIAL PROCLAMATION.

Whenever the President of the Town Council may apprehend that there is danger of the existence or spread of hydrophobia or other dangerous disease within the town, he shall issue a proclamation ordering and requiring all persons owning, possessing or harboring any member of the canine family within the limits of the town to:

(A) Confine or muzzle such animal for a term of not less than 30 days, nor more than 90 days following the date of such proclamation;

(B) Cause such uninoculated animal to be inoculated with antirabies serum by a registered veterinary surgeon;

(C) Cause such animal to be effectively secured and muzzled during the period of the proclamation so as to prevent the animal from biting humans and other animals.

(Ord. 249, passed 4-2-84)

§ 91.48 DESTRUCTION OF RABID DOG.

Any member of the canine family which may be found in violation of the provisions of the proclamation issued pursuant to § 91.04 shall be destroyed by order of the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana. (Ord. 249, passed 4-2-84; Am. Ord. 277, passed 9-11-89)

§ 91.46 POTENTIALLY DANGEROUS DOGS.

(A) If a person owns or harbors a potentially dangerous dog, or in the event that any dog commits an act or acts which define a dog as a "potentially dangerous dog" (see definition in § 91.01) the owner shall have 48 hours from acquiring ownership or from the time the owner harbors a potentially dangerous dog or from the incident which triggers the applicability of the definition of a potentially dangerous dog to report the incident to the Mentone Police Department.

(B) The owner of a potentially dangerous dog shall apply to the Clerk-Treasurer's Office or the town's duly authorized third party for the licensing of the dog. The application shall be on a form provided by the Clerk-Treasurer's Office or the town's duly authorized third party and shall be accompanied by all of the following:

(1) Verification of the owner's name and current address by way of providing a photostatic copy of his or her driver's license;

(2) Proof that the applicant owns said dog;

(3) One copy of a registration certificate issued for said dog by the U.K.C., AK.C. and/or AD.BA, if available;

(4) One copy of the current immunization and health records for said dog;

(5) Proof that the applicant has insurance coverage of not less than \$300,000 for any injury, damage or loss caused by said dog;

(6) Two photographs of said dog taken not more than one month before the date of the application. One photograph shall be a front view of the dog, and one photograph shall be a side view of said dog;

(7) If the dog was previously licensed under this chapter, the name and address of any previous owner and the number of the most recent license assigned to said dog;

(8) A licensing fee of \$25; however, in the event that an application for license is made after September 1 of each year, the fee shall be prorated to one-half of the yearly license fee.

(C) If the Clerk-Treasurer's Office or the town's duly authorized third party is satisfied of all of the following, said dog shall be licensed if:

(1) The applicant is the owner or agent of the dog;

(2) The applicant is 18 years of age or older;

(3) The applicant agrees to inform the Clerk-Treasurer's Office of any notice or cancellation of the required liability insurance within 48 hours of such notice or cancellation;

(4) The applicant agrees to inform the City Clerk-Treasurer's Office of any change of address, or change of ownership of said dog; and

(5) The applicant meets the other requirements under this section for licensing.

(D) Upon licensing of a dog not previously licensed under this chapter the Clerk-Treasurer's Office or the town's duly authorized third party shall assign a specific license number of ownership to said dog, without duplication, which number shall be tattooed on the inside and through the skin of a rear leg of said dog at the initial time said dog is licensed under this chapter. No further tattoos shall be required upon renewal of said license. All licenses issued under this chapter shall expire January 31 of each year. The tattooing shall be done by a veterinarian and shall be made by the use of permanent tattoo ink. The tattoo shall not be less than one inch long and not less than 1/4 inch high. The Clerk-Treasurer's Office or the town's duly authorized third party shall issue to the owner or agent of said dog a license or permit in written form which includes the number of the license or permit, type of license or permit, date of issuance and date of expiration. Additionally, a durable tag stamped with the license or permit number and year of issuance shall be given along with a sign stating "BEWARE - POTENTIALLY DANGEROUS DOG", which sign must be prominently and conspicuously displayed by the owner of said dog where said dog is harbored and clearly visible from the street or alley immediately adjacent thereto.

(E) The Clerk-Treasurer's Office or the town duly authorized third party shall keep a permanent record of the name and address of the owner or agent of each such dog licensed under this chapter and the number of ownership, name, breed, sex, color and two photographs of each such dog so licensed. The Clerk-Treasurer's Office and/or the town's duly authorized third party shall furnish to any law enforcement agency a true copy of these records upon request.

(F) The Clerk-Treasurer's Office and the town's duly authorized third party shall keep the licensing records for said dogs licensed under this chapter separate from the records for all other breeds of dogs. (Ord. 312, passed 7-3-95) Penalty, see § 91.99

CATS

§ 91.60 RUNNING AT LARGE PROHIBITED.

The owner or keeper of any cat within the town is hereby required to restrain such cat from running at large, and it shall be unlawful to suffer or permit any cat to run at large on any of the streets, alleys, sidewalks, public places or public grounds within the limits of the town. (Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.61 IMPOUNDMENT OF CATS AT LARGE.

It shall be the duty of the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, to take into custody any cat found to be roaming the streets and/or alleys, or other public places, unattended by the owner or the owner's agent or custodian, and to place such cat in the town animal pound. (Ord. 249, passed 4-2-84)

§ 91.62 RABIES IMMUNIZATION REQUIRED.

It shall be unlawful for any person to harbor any cat which is over six months of age and which has not been inoculated for rabies within the immediately preceding 12 months. (Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.63 ALLOWING CATS TO INJURE HUMAN BEINGS PROHIBITED.

No person shall harbor a cat over six months of age which has not been inoculated for rabies within the immediately preceding 12 months and allow such cat to run loose, with the result that bodily injury is inflicted upon a human being. (Ord. 249, passed 4-2-84) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be subject to a fine of not less than \$50 nor more than \$500 per violation.

(B) Any person who violates § 91.04 shall be subject to a fine of not less than \$100 nor more than \$1,000 per violation. (Ord. 312, passed 7-3-95)

(C) Whoever violates any provision of §§ 91.40 through 91.45 or §§ 91.60 through 91.63 shall be fined not more than \$500. (Ord. 249, passed 4-2-84)

Cross reference:

Ordinance Violation Bureau penalties, see § 36.04

CHAPTER 92: CIVIL EMERGENCIES

Section

- 92.01 Definition
- 92.02 Proclamation by Town Council
- 92.03 Curfew
- 92.04 Authority to order cessation of business
- 92.05 Authority to invoke special regulations

- 92.99 Penalty

§ 92.01 DEFINITION.

For the purpose of this chapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

CIVIL EMERGENCY.

(1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute such force by three or more persons acting together without authority of law; or

(2) Any natural disaster or man-made calamity including flood, conflagration, cyclone, tornado, earthquake or explosion within the corporate limits of the city resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(Ord. 184, passed 4-13-70)

§ 92.02 PROCLAMATION BY TOWN COUNCIL.

When, in the judgment of the members of the Town Council, a civil emergency is deemed to exist, they shall forthwith proclaim in writing the existence of same. Such proclamation shall state the regulations invoked thereby, and it shall be published in a newspaper of general circulation in the English language, published in the County of Kosciusko, as quickly as possible, and shall forthwith be posted in five public places in the town. Further, the President of the Town Council making such proclamation shall endeavor to have the fact thereof and the contents thereof broadcast by radio or television communications.

(Ord. 184, passed 4-13-70)

§ 92.03 CURFEW.

As a part of such proclamation a general curfew may be ordered prohibiting any person or persons from walking, running, loitering, standing or motoring in any place in the whole or such part of the city as may be defined in such proclamation, which curfew shall be applicable during such hours of the day or night as the Town Council deems necessary in the interest of the public safety, health and welfare. (Ord. 184, passed 4-13-70) Penalty, see § 92.99

§ 92.04 AUTHORITY TO ORDER CESSATION OF BUSINESS.

As a part of such proclamation the Town Council may also, in the interest of the public safety and welfare, make any or all of the following orders:

- (A) Order the closing of all retail liquor stores.
- (B) Order the closing of all taverns.
- (C) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating liquor or beer or both is permitted.
- (D) Order the discontinuance of the sale of beer.
- (E) Order the discontinuance of selling, distributing or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (F) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.
- (G) Order the discontinuance of selling, distributing, dispensing or giving away of firearms or ammunition or both.
- (H) Issue such other orders as are imminently necessary for the protection of life and property. (Ord. 184, passed 4-13-70)

§ 92.03 AUTHORITY TO INVOKE SPECIAL REGULATIONS.

During the period of a declared state of emergency the Town Council shall have the power to invoke any or all of the following regulations:

(A) Alcoholic beverages. No person shall consume any alcoholic beverages in a public street or place which is publicly owned, or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.

(B) Weapons. No person shall carry or possess any rock, bottle, club, brick or weapon, who uses or intends to use the same unlawfully against the persons or property of another.

(C) Incendiary missiles. No person shall make, carry, possess or use any type of "Molotov Cocktail," gasoline or petroleum base fire bomb or other incendiary missile.

(D) Restricted areas. No person shall enter any area designated by the Town Council as a restricted area unless in the performance of official duties or with written permission from the Town Council or their duly designated representative, or person residing therein, or a person related as a guardian, as a parent or child of a person residing therein.

(Ord. 184, passed 4-13-70) Penalty, see § 91.99

§ 92.99 PENALTY.

Any person violating any provision of this chapter or any order made in any proclamation duly ordered according to the terms of this chapter shall be punished by a fine of not more than \$500.

(Ord. 184, passed 4-13-70)

CHAPTER 93: NUISANCES

Section

- 93.01 Property to be kept free from garbage, weeds and the like; removal of partially demolished buildings
- 93.02 Noncompliance; abatement notification
- 93.03 Failure of owner to abate nuisance; costs and liens
- 93.99 Penalty

§ 93.01 PROPERTY TO BE KEPT FREE FROM GARBAGE, WEEDS AND THE LIKE; REMOVAL OF PARTIALLY DEMOLISHED BUILDINGS.

It shall be the duty of the owner or the owners, jointly and severally, of each lot, part of lot, parcel of land, or any possessory or rental interest therein, within the town to cut and remove weeds and other rank vegetation growing thereon, and to keep the real estate free from ashes, paper, rags, garbage, rubbish, debris and trash of any nature or character, and to remove any partially demolished buildings and/or improvements which have been partially tom down and which are unsightly in appearance, so that the real estate does not detract from the general appearance of the area in which it is located. (Ord. 181, passed 2-3-69) Penalty, see § 93.99

§ 93.02 NONCOMPLIANCE; ABATEMENT NOTIFICATION.

If it is brought to the attention of the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, that any person is not complying with § 93.01 of this chapter, the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, shall notify such person or persons in writing of their failure to comply herewith. Thereafter, the person or persons notified shall have a period of 15 days in which to clean up the land in question so that it conforms to the provisions of this chapter. (Ord. 181, passed 2-3-69)

§ 93.03 FAILURE OF OWNER TO ABATE NUISANCE; COSTS AND LIENS.

(A) If 15 days expire after written notification is given to any person or persons in accordance with § 93.02 of this chapter, and the property in question has not been cleaned up to conform to the provisions of this chapter, the Town Marshall and/or the Sheriff of Kosciusko County, Indiana, and/or the Deputies of the Sheriff of Kosciusko County, Indiana, shall proceed to have such lot, part of a lot, or parcel of land, or any interest therein, cleaned up by the town to conform to the provisions of this chapter, the costs and expense thereof to be bom and paid by the owner or owners of the land in question.

Mentone - General Regulations

(B) The Clerk-Treasurer of the town shall notify the owner or owners of the land cleaned up of the costs and expense thereof and the owner or owners shall promptly pay to the town the costs and the expense incurred by the town in cleaning up the property.

(C) Once each year the Clerk-Treasurer of the town shall prepare, certify, and forward to the County Auditor, a list containing the names of the owner or owners of any property who have not paid the costs and expense incurred by the town in cleaning up such property. This list shall also contain a description of the property cleaned up and shall certify the actual costs and expense incurred in cleaning up said property. The County Auditor shall thereupon enter the costs and expense so certified upon the tax duplicate of the owner or the owners of the real estate, and these costs and expenses shall be collected in the same manner as property taxes are now collected and they shall remain a lien upon the real estate until they are paid in full by the owner or the owners thereof.
(Ord. 181, passed 2-3-69)

§ 93.99 PENALTY FOR § 93.01

For violations of § 93.01, the provisions of the Ordinance Violation Bureau (see § 36.04) or the general penalty (see § 10.99) shall apply.

CHAPTER 94: STREETS AND SIDEWALKS

Section

- 94.01 Burning garbage and the like upon streets and sidewalks
- 94.02 Sidewalk and curbing installation; distribution of costs
- 94.03 Cuts into streets and sidewalks

- 94.99 Penalty

§ 94.01 BURNING GARBAGE AND THE LIKE UPON STREETS AND SIDEWALKS.

It shall be unlawful for any person to burn any garbage, refuse or natural debris (such as leaves) upon paved sidewalks or paved streets within the corporate boundaries of the town.
(Ord. 247A, passed 2-6-84) Penalty, see § 94.99

§ 94.02 SIDEWALK AND CURBING INSTALLATION; DISTRIBUTION OF COSTS.

(A) When monies are available the town will share 50% of the cost of material and labor to install new curbing and new sidewalks if work is done by a contractor.

(B) If the work is done by the town employees, residents will be responsible for 100% of cost of material.

(C) Town will require 50% of the cost before the work is started and the balance upon completion of work.

(D) The town will make it public whenever they plan to make fund available and work will be done on a first come basis.
(Ord. 279, passed 2-5-90)

§ 94.03 CUTS INTO STREETS AND SIDEWALKS.

(A) No person shall cut the surface of any public way without first having obtained a street cut permit. This section is intended to cover any improved surface in the town's rights-of-way, including but not limited to asphalt, concrete streets, alleys, curbs, sidewalks, walkways or any other improved rights-of-way with concrete, asphalt or improved surfaces.

(B) Application shall be made on forms provided by the town, and may be picked up from the Clerk-Treasurer at the Clerk's office at 201 West Main Street. A \$25 non-refundable fee must accompany this application.

(C) The Superintendent shall proceed with due diligence to measure the proposed cut and **estimate, in writing**, the cost of labor and materials necessary to restore the public way to the same condition in which it existed prior to the cut proposed to be made by the applicant. The Superintendent shall return the estimate to the Clerk-Treasurer.

(D) (1) The Clerk-Treasurer shall issue the street cut permit to the applicant if the applicant shall pay to the Clerk-Treasurer a security deposit equal to 125% of the estimate restoration cost as determined by the Superintendent. The security deposit shall be placed in the Street Cut Fund and shall be refunded to the applicant when, within a reasonable time after the permit has been exercised, the applicant shall restore the street to the condition in which it existed prior to the cut and the Superintendent shall sign a claim authorizing the refund. If the applicant does not restore the cut the cost of the restoration may be paid from the applicant's security deposit on claim made by the applicant and approved by the Superintendent.

(2) The applicant may in the alternative post bond of sufficient amount to cover the restoration cost. If the applicant does not restore the street to the condition in which it existed prior to the cut a claim may be made against said bond by the Superintendent.
(Ord. 07-388, passed 3-5-07; Am. Ord. 18-454, passed 4-2-18)

§ 94.99 PENALTY.

Any person violating the provisions of § 94.01 shall, upon conviction, be fined not less than \$1 nor more than \$25 for each offense.
(Ord. 247A, passed 2-6-84)

Cross reference:

Ordinance Violation Bureau penalties, see § 36.04

CHAPTER 95: FAIR HOUSING

Section

95.01	Definitions
95.02	Policy statement
95.03	Unlawful practice
95.04	Discrimination in the sale or rental of housing
95.05	Discrimination in residential real estate-related transactions
95.06	Discrimination in the provision of brokerage services
95.07	Interference, coercion, or intimidation
95.08	Prevention of intimidation in fair housing cases
95.09	Equal access to housing in HUD programs
95.10	Exemptions
95.11	Administrative enforcement

§ 95.01 DEFINITIONS.

The definitions set forth in this section shall apply throughout this chapter:

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice; or
- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur. (IC 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission created pursuant to IC 22-9-1-4 et. seq. (IC 22-9.5-2-3)

COMPLAINANT. A person, including the Commission, who files a complaint under IC 22-9.5-6. (IC 22-9-1-4)

DISCRIMINATORY HOUSING PRACTICE. An act that is unlawful under §§ 95.04, 95.05, 95.06, 95.07, or 95.08 or IC 22-9.5-5.

DWELLING. Any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one or more families. (IC 22-9.5-2-8)

FAMILIAL STATUS.

- (1) One or more individuals who have not attained the age of 18 years being domiciled with a parent or another person having legal custody of such individual or the written permission of such parent or other person.
- (2) The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

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FAMILY. Includes a single individual, with the status of such family being further defined in "Familial Status." (IC 22-9.5-2-9)

HANDICAP.

(1) With respect to a person:

(a) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(b) A record of having such an impairment; or

(c) Being regarded as having such an impairment;

(d) An impairment described or defined pursuant to the federal Americans with Disabilities Act of 1990.

(e) Any other impairment defined under IC 22-9.5-2-10,

(2) The term **HANDICAP** shall not include current illegal use of or additions to a controlled substance as defined in 21 U.S.C. § 802 (IC 22-9.5-2-10(b)); nor does the term **HANDICAP** include an individual solely because that individual is a transvestite (IC 22-9.5-2-10(c)).

PERSON. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries. (IC 22-9.5-2-11)

TO RENT. Includes to lease, to sublease, to let and otherwise to grant for a consideration the rights to occupy the premises owned by the occupant. (IC 22-9.5-2-13)
(Ord. 13-431, passed 5-6-13)

§ 95.02 POLICY STATEMENT.

It shall be the policy of the Town of Mentone to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and IC 22-9.5-1 et. seq.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 95.09 and IC 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in IC 22-9.5-5-1 and in § 95.04 shall apply to:

(A) All dwellings except as exempted by division (B) and IC 22-9.5-3.

(B) (1) Other than the provisions of division (C), nothing in § 95.04 shall apply to:

(2) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time; provided that in the sale of such single family house by a private individual owner not residing in the house at the time of sale or exemption shall apply only to one such sale within any 24 month period. The private individual

owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single family house shall be exempted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 95.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or

(c) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarter as his or her residence.

(C) For the purposes of division (B), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) They have, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) They have, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) They are the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 95.03 and except as exempted by §§ 95.03(B) and 95.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.

(B) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services of facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.

(C) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.

(D) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(E) For profit, to induce or attempt to induct any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

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(F) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

- (1) That buyer or renter;
- (2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (3) Any person associated with that person.

(G) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

- (1) That person; or
- (2) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- (3) Any person associated with that person.

(H) For purposes of this section, discrimination includes:

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear expected;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multi-family dwelling for first occupancy after the date that is 30 months after September 13, 1998, a failure to design and construct those dwellings in such a manner that:

(a) The public use and common use portions of such dwelling are readily accessible to and useable by handicapped persons;

(b) All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(c) All premises within such dwellings contain the following features of adaptive design:

1. An accessible route into and through the dwelling;
2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
3. Reinforcements in bathrooms such that an individual in a wheelchair can maneuver about the space.

(I) Compliance with the appropriate requirement American Disabilities Act of 1990 and of the American National Standard for Buildings and Facilities providing accessibility and usability for physically handicapped people (commonly cited as ANSI A117.1) suffices to satisfy the requirements of division (H)(3)(c)3.

(J) Nothing in this section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.
(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTION.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(B) As used in this section, the term **RESIDENTIAL REAL ESTATE-RELATED TRANSACTION** means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance:
 1. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 2. Secured by residential real estate.
- (2) The selling, brokering, or appraising of residential real property.

(C) Nothing in this section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.07 INTERFERENCE, COERCION, OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by §§ 95.03, 95.04, 95.05, or 95.06.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under code or law, by force or threat of force willfully injures, intimidates or interferes with, or attempt to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, handicap, familial status, or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation or any

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dwelling, or applying for or participation in any service, organization, or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations or facilities described in division (A); or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status, or national origin, in any of the activities, services, organizations, or facilities described in division (A), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined according to local, state and federal law; and if bodily injury results shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life,
(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.09 EQUAL ACCESS TO HOUSING IN HUD PROGRAMS.

Pursuant to Federal Register, Volume 77, Number 23, published on February 3, 2012, the definition of **FAMILY** is revised to include families regardless of the actual or perceived sexual orientation, gender identity, or marital status of its members.
(Ord. 13-431, passed 5-6-13)

§ 95.10 EXEMPTIONS.

(A) Exemptions defined or set forth under IC 22-9.5-3 et. seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) of this section.

(B) Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such person, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(C) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons. As used in this section, **HOUSING FOR OLDER PERSONS** means housing:

(1) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

(2) Intended for, and solely occupied by, person 62 years of age or older; or

(3) Intended and operated for occupancy by at least one person 55 years of age or older per unit.
(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

§ 95.11 ADMINISTRATIVE ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commissioners as set forth in division (B) hereof shall be vested in the Chief Elected Official of the town.

(B) Notwithstanding the provisions of IC 22-9.5-4-8, the Town of Mentone, Indiana, because of lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under the chapter, herein elects to refer all formal complaints of violation of the sections of this chapter by complainants to the Indiana Civil Rights Commission for administrative enforcement actions pursuant to IC 22-9.5-6 and the Chief Elected Official of the town, shall refer all said complaints to the Commission as provided for under division (A) of this section to said Commission for purposes of investigation, resolution and appropriate relief as provided for under IC 22-9.5-6.

(C) All executive departments and agencies of the town shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the Chief Elected Official and the Commission to further such purposes.

(D) The Chief Elected Official of the town or the Chief Elected Official's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.

(Ord. 321, passed 10-7-96; Am. Ord. 13-431, passed 5-6-13)

CHAPTER 96: BICYCLES, SKATEBOARDS, SKATES, AND SCOOTERS

Section

General Provisions

- 96.01 Definitions
- 96.02 Performance of stunts, tricks, or jumping

Bicycles

- 96.15 Traffic laws applicable to bicycles
- 96.16 Manner of riding, speed, and parking of bicycles
- 96.17 Operations of bicycles on sidewalks restricted

Skateboards, Skates, and Scooters

- 96.40 Operation of skateboards, skates and scooters on sidewalks and streets restricted
- 96.99 Penalty

§ 96.01 DEFINITIONS

As used in this chapter, the following terms have the following meanings:

BICYCLE. Every peddled vehicle propelled solely by human power upon which any person may ride, usually having two tandem wheels.

ROLLER SKATES AND/OR IN-LINE SKATES. Any device designed to be attached to the foot and having wheels, usually propelled by human power and intended to carry or propel an individual.

SCOOTER. Any board, surface or other similar device, usually propelled by human power and usually having attached two wheels and used to carry or propel an individual.

SKATEBOARD. Any board, surface or other similar device, usually propelled by human power and usually having attached four wheels and used to carry or propel an individual.

SIDEWALK. All sidewalks laid out as such by the Town or reserved by custom or usage for the use of pedestrians as sidewalks, excluding paths, trails or walks that are designated by appropriate signs for bicycle travel.

STREETS. Any highway, street, roadway, lane or other public way used for vehicular traffic.

§ 96.02 PERFORMANCE OF STUNTS, TRICKS, OR JUMPING.

It shall be a violation of this chapter to place on any street within the Town any device used to assist in the performance of stunts or tricks while riding or operating bicycles, skateboards, roller skates, in-line skates or scooters.

Mentone - General Regulations**BICYCLES****§ 96.15 TRAFFIC LAWS APPLYING TO BICYCLES.**

Every person riding a bicycle upon a roadway shall be subject to the statutes of the state and to the provisions of this chapter applicable to the driver of a vehicle, except such provisions which by their nature can have no application. For the purpose of this section a sidewalk or a city-owned property shall be deemed to be a roadway and shall be subject to the same traffic control as is the street adjacent to which such sidewalk parallels or to which such property lies.

§ 96.16 MANNER OF RIDING, SPEED, AND PARKING OF BICYCLES.

No operator of a bicycle shall cause his or her bicycle to weave or curve to and fro upon a sidewalk or roadway and shall ride the same in a straight and continuous line only. No person shall operate his or her bicycle at a speed greater than that which permits him or her to bring his or her bicycle to a stop within the assured clear distance ahead. No person shall park a bicycle upon a street other than against the curb, or upon a sidewalk in a rack to support the bicycle or against a building or at the curb except in such a manner as to afford no obstruction to vehicular or pedestrian traffic.

§ 96.17 OPERATIONS OF BICYCLES ON SIDEWALKS RESTRICTED.

No person shall operate a bicycle upon a sidewalk within the following streets in the Town:

Main Street, between Morgan Street and Tucker Street.

Where bicycles are permitted to be operated upon sidewalks, the operator of the bicycle shall yield the right-of-way to any pedestrian.

SKATEBOARDS, SKATES, AND SCOOTERS**§ 96.40 OPERATION OF SKATEBOARDS, SKATES, AND SCOOTERS ON SIDEWALKS AND STREETS RESTRICTED.**

It shall be a violation of this chapter to ride or operate skateboards, roller skates, in-line skates, and scooters on the streets and sidewalks within the area bounded by the following streets in the Town:

On Main Street between Yale Street and Franklin Street and extending both North and South on each of the following side streets, which includes: Morgan Street, Broadway Street, Tucker Street, and Franklin Street - to the first residence on each side of the street. Also, on the Mentone Elementary School property and adjacent sidewalks which include the area bounded by the following streets: Jackson Street on the South side, Yale Street on the West side, and Harrison Street on the North side.

§ 96.99 PENALTIES.

Violations of this chapter shall be subject to a maximum fine of Fifty Dollars (\$50.00):

(A) First Offense. Upon the first violation hereof, the bicycle, skateboard, roller skate, in-line skate or scooter of the offending party, who was riding or otherwise operating the same, shall be confiscated by the Town Marshal or his deputies and held by the Town Marshal for the Town for a period of five days, after which time, said item shall be returned to such party.

(B) Second Offense: Upon the second violation hereof, the bicycle, skateboard, roller skate, in-line skate or scooter of the offending party, who was riding or otherwise operating the same, shall be confiscated by the Town Marshal or his Deputies and held by the Town Marshal for the Town for a period of five days, and the offending party shall be fined in an amount not to exceed \$25.00, after which time, said item shall be returned to such party.

(C) Subsequent offenses. All subsequent violations hereof, the bicycle, skateboard, roller skate, in-line skate or scooter of the offending party, who was riding or otherwise operating the same, shall be confiscated by the Town Marshal or his Deputies and held by the Town Marshal for the Town for a period of 30 days, and the offending party shall be fined an amount not to exceed \$50.00, after which time, said item shall be returned to such party.

(D) Fines assessed. The fines assessed in the chapter shall be paid to the Clerk-Treasurer to the Town in accordance with the Ordinance Violation Bureau, as established by the Town.
(Ord. 347, passed 4-5-99)

CHAPTER 97: GARAGE SALES

Section

- 97.01 Definition
- 97.02 Limitations
- 97.03 Permit
- 97.99 Penalty

§ 97.01 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

GARAGE SALES. Any garage, porch, patio, tag, or yard sale, which:

(1) Is conducted from a residence (single-family or multi-family) within the town which is displayed in the open, clear view of the public, in a garage, in a yard, or adjacent to a dwelling house or other building primarily used for residential purposes; and

(2) Sells clothing, toys, household furnishings, furniture, appliances, household, yard, or garden tools and equipment, and/or other personal items.
(Ord. 08-399, passed 7-7-08)

§ 97.02 LIMITATIONS.

Garage sales are limited as follows.

(A) Only two sales per calendar year may be conducted from any one location.

(B) Each sale may be active and display items for sale for a period not to exceed Thursday from 7:00 a.m. to 5:00 p.m., Friday from 7:00 a.m. to 5:00 p.m., and Saturday from 7:00 a.m. to 5:00 p.m. No sales on Sunday, Monday, Tuesday, or Wednesday. All sale items and sale paraphernalia must be removed from public view within one hour after the end of any garage sale.

(C) There must be a period of eight days between sales at any specific location. Consecutive sales are specifically prohibited.

(D) A third garage sale may be held in a calendar year that is limited to the time during the Egg Festival each year, so long as the town continues to hold such festival or similar type event. Garage sales during Egg Days shall be conducted in accordance with divisions (B) and (C) as described above.

(Ord. 08-399, passed 7-7-08) Penalty, see § 97.99

97.03 PERMIT.

Any person desiring to organize, operate, or maintain a garage sale shall make application at the Office of the Clerk-Treasurer for a permit for such sale. Upon approval of the application by the Clerk-Treasurer, a permit shall be given and issued to the applicant. The permit shall be attached or displayed to the residential premises at which the garage sale is being operated and in clear view for public inspection at all times during the sale.
(Ord. 08-399, passed 7-7-08; Am. Ord. 08-402, passed 9-8-08)

§ 97.99 PENALTY.

(A) An officer of the Mentone Police Department may issue a town ordinance violation citation to a person who violates this chapter or fails to comply with any of the requirements.

(B) The fines imposed for a violation or non-compliance shall be as follows:

- (1) Fifty dollar fine for the first violation;
- (2) Seventy-five dollar fine for the second violation; and
- (3) Two hundred dollar fine for the third and all subsequent violations:
 - (a) Sale starts too early;
 - (b) Sale extended beyond ending time;
 - (c) Sale items or display paraphernalia is not removed within allotted time;
 - (d) Sale other than permitted days; and
 - (e) More than two garage sales per year, except for Egg Festival.

(C) Each day that there is non-compliance or violation of this chapter shall constitute a separate offense.
(Ord. 08-399, passed 7-7-08)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSING OF ITINERANT MERCHANTS

CHAPTER 110: LICENSING OF ITINERANT MERCHANTS

Section

110.01 License required

§ 110.01 LICENSE REQUIRED.

(A) It shall be unlawful for any street peddler, hawker or other itinerant dealer in goods, wares and merchandise or other articles of value, whether an individual or an association of persons to sell or deliver any goods, wares and merchandise directly to a consumer within the limits of the town, without first having obtained a license therefor.

(B) *Exceptions.* The provisions of division (A) above shall not apply to persons or organizations who sell to merchants or dealers who purchase the same for the purposes of resale, nor shall this section apply to any citizen residing and paying taxes in the county limits of Kosciusko County, in the State of Indiana, or to the sale of products in Kosciusko County, State of Indiana.

(C) The license required by division (A) above shall be procured from the Clerk-Treasurer of the town upon the payment of a fee of \$5 for each and every day of use thereof.

(D) Any such license shall not be transferable.
(Ord. 07-389, passed 3-5-07)

TITLE Xm: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST TOWN REGULATIONS

CHAPTER 130: OFFENSES AGAINST TOWN REGULATIONS

Section

Curfew

- 130.01 Curfew
- 130.02 Curfew violations

Open Burning

- 130.10 Restricted burning
- 130.11 Definitions
- 130.12 Permitted fires
- 130.13 Burning authorized upon application
- 130.99 Penalty

CURFEW

§ 130.01 CURFEW.

- (A) It is a curfew violation for a child 15, 16, or 17 years of age to be in a public place:
 - (1) Between 11 p.m. and 5 a.m. on Saturday or Sunday;
 - (2) After 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or
 - (3) Before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (B) It is a curfew violation for a child under 15 years of age to be in a public place after 11 p.m. or before 5 a.m. on any day.
- (C) This section does not apply to a child who is:
 - (1) Accompanied by his parent, guardian, or custodian;
 - (2) Accompanied by an adult specified by his parent, guardian, or custodian; or
 - (3) Participating in, going to, or returning from:
 - (a) Lawful employment;

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(b) A school sanctioned activity; or

(c) A religious event.

(Ord. 306, passed 8-1-94)

§ 130.02 CURFEW VIOLATIONS.

The violation of § 130.01 shall constitute a curfew violation under IC 31-6-4-1, or any acts amendatory thereto, and shall subject a violator to the penalties provided in IC 31-6-4-1 et seq., or any acts amendatory thereto.

(Ord. 306, passed 8-1-94)

Cross reference:

Ordinance Violation Bureau penalties, see § 36.04

Editor's note:

IC. 31-6-4-1 et seq. was repealed in 1997. For present curfew violation, see IC 33-37-3-1.

OPEN BURNING**§ 130.10 RESTRICTED BURNING.**

No person shall open bum any material within the corporate limits of the city except as permitted by this subchapter.

(Ord. 311, passed 5-1-95)

§ 130.11 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HAZARD. Flying sparks or embers that could discolor or damage house siding, vehicles boats, patio furniture or other property of residence left outside; create a smoking condition that adversely affects visibility and may create a driving hazard; fire unattended by an individual 18 or over and burning within ten feet of any structure.

NUISANCE. Heavy air or atmosphere that allows smoke to hang or lay in the air or atmosphere; circumstances that result in complaints from one or more neighbors and/or have an adverse affect on residence or neighbors with health problems.

(Ord. 311, passed 5-1-95)

§ 130.12 PERMITTED FIRES.**(A) Types of fires permitted.**

(1) Fires celebrating Twelfth Night ceremonies;

- (2) Fires celebrating school pep rallies;
 - (3) Fires celebrating scouting activities;
 - (4) Fires used for recreational and cooking purposes, i.e. camp fires;
 - (5) Farm burning; wood products derived from the following farm maintenance operations:
 - (a) Burning of fence rows and fields or materials derived therefrom;
 - (b) Burning of natural growth derived from clearing a drainage ditch;
 - (c) Burning of limbs and primings, but only if so diseased or infected as to prevent a contamination problem.
 - (6) Department of Natural Resources burning in order to facilitate prescribed burning on a DNR-controlled property for wildlife habitat maintenance, forestry purposes, and natural area management.
- (B) Exemption criteria. All exemptions under this section shall be subject to the following:
- (1) Only wood products shall be burned;
 - (2) The fire shall be attended at all times until completely extinguished;
 - (3) If fires create a nuisance or a fire hazard, they shall be extinguished;
 - (4) All farm burning shall occur during daylight hours during which the fires may be replenished, but only in such a manner that nearly all of the burning material is consumed by sunset;
 - (5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high winds, air stagnation, etc.
- (Ord. 311, passed 5-1-95)

§ 130.13 BURNING AUTHORIZED UPON APPLICATION.

Upon application to the Clerk-Treasurer and written approval, the following may be authorized:

- (A) Emergency burning of spilled petroleum products when all reasonable efforts to recover the spilled material have been made and failure to burn would result in an imminent fire hazard or water pollution problem;
- (B) Burning of refuse consisting of material resulting from a natural disaster;
- (C) Burning for the purpose of fire training;

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(D) Burning of natural growth derived from a clearing operation, i.e., removal of natural growth for change in use of land;

(E) Burning of highly explosive or other dangerous materials for which no alternative disposal method exists or where transportation of such materials is impossible;

(F) Such other circumstances which, as determined by the Board of Public Works and Safety, pose no hazard to health or safety.
(Ord. 311, passed 5-1-95)

§ 130.99 PENALTY.

Persons violating §§ 130.10 through 130.13 shall be fined in an amount not to exceed \$100 for each violation.

(Ord. 311, passed 5-1-95)

Cross reference:

Ordinance Violation Bureau penalties, see § 36.04

TITLE XV: LAND USAGE

Chapter

- 150. MOBILE, MANUFACTURED AND MODULAR HOMES**
- 151. ZONING CODE**
 - APPENDIX A: RESIDENTIAL USES; REQUIREMENTS**
 - APPENDIX B: BUSINESS USES; REQUIREMENTS**
 - APPENDIX C: INDUSTRIAL USES; REQUIREMENTS**
 - APPENDIX D: CONTINGENT USES; REQUIREMENTS**
 - APPENDIX E: SPECIAL EXCEPTIONS**
 - APPENDIX F: ZONING MAPS**
- 152. RESIDENTIAL RENTAL PROPERTY**
- 153. BUILDING CODE**
- 154. FLOOD HAZARD AREAS**

CHAPTER 150: MOBILE, MANUFACTURED AND MODULAR HOMES

Section

- 150.01 Placement of mobile homes in mobile home parks required
- 150.02 Parking of mobile homes; requirements and limitations
- 150.03 Temporary parking permits
- 150.04 Division of additional lots for mobile homes prohibited
- 150.05 Connecting to utilities restricted
- 150.06 Exceptions; application
- 150.07 Manufactured Homes
- 150.08 Modular Homes

- 150.99 Penalty

§ 150.01 PLACEMENT OF MOBILE HOMES IN MOBILE HOME PARKS REQUIRED.

A mobile home is a vehicular, portable structure, built on a chassis and designed to be used on a permanent foundation as a dwelling unit when connected to the necessary utilities. For the purpose of this ordinance, the term "Mobile Home" shall not include modular homes or manufactured homes. No person, organization or entity of any type shall park within the corporate limits of the town, any mobile home, except upon land which has prior to the effective date of this chapter been commonly used as a mobile home park, and for which all state licenses and permits are in full force and effect. (Ord. 292, passed 3-1-93; Am. Ord. 346, passed 2-1-99)

§ 150.02 PARKING OF MOBILE HOMES; REQUIREMENTS AND LIMITATIONS.

No permit for the parking of any mobile home or house trailer shall be issued by the Council, except for a temporary permit as provided in § 150.03; unless and until the Council determines that such mobile home or house trailer shall meet the following requirements and limitations:

(A) The mobile home or house trailer shall be at least 14 feet in width or shall contain a minimum of 840 square feet under one roof.

(B) The mobile home or house trailer shall be located on a lot of not less than 5,000 square feet in size.

(C) The mobile home or house trailer shall be connected to its own separate septic system and shall have its own separate water supply and its own separate utilities.

(D) The tongue or pulling ring for any such mobile home or house trailer shall be removed and placed beneath said mobile home or house trailer or in such other place so as to not be visible from any public way, or permanently covered so as not to be visible from any public way.

(E) The mobile home or house trailer shall be placed upon a permanent foundation or a cement slab, with its wheels removed, and such slab shall be at least the same size as the mobile home or house trailer and at least 3½ inches thick.

(F) The mobile home or house trailer shall have a full skirting on all sides, consisting of metal, fiberglass or similar construction material.

(G) The mobile home or house trailer shall be tied down in accordance with the requirements of the state.

(H) There shall be provision made for off-street parking for at least two motor vehicles on the lot on which the mobile home or house trailer is located.

(I) In addition to the foregoing requirements and limitations, a storage shed containing a minimum of 100 square feet and placed on a concrete slab or foundation at least as large as the storage building shall be placed on the lot on which the mobile home or house trailer is located.

(Ord. 292, passed 3-1-93) Penalty, see § 150.99

§ 150.03 TEMPORARY PARKING PERMITS.

The Town Council may grant a temporary parking permit for a mobile home or house trailer not to exceed 30 days for the parking of a mobile home or house trailer upon any land located within the town, if upon investigation the Town Council finds that good and sufficient sanitary facilities will exist for said mobile home during that temporary period; provided, however, that only one of such temporary permits shall be issued to the owner of any land within the town each year.

(Ord. 292, passed 3-1-93)

§ 150.04 DIVISION OF ADDITIONAL LOTS FOR MOBILE HOMES PROHIBITED.

No existing lot in the town may be divided into an additional lot or lots for the purpose of locating a mobile home on any such lots.

(Ord. 292, passed 3-1-93) Penalty, see § 150.99

§ 150.05 CONNECTING TO UTILITIES RESTRICTED.

No owner or occupant of any dwelling within the corporate limits of the town shall park upon his land, or suffer to be parked upon his land, any mobile home or house trailer, which is connected to the water, sewer and/or utility facilities of the dwelling so owned or occupied by such owner, without having obtained the prior written permit of the Town Council.

(Ord. 292, passed 3-1-93) Penalty, see § 150.99

§ 150.06 EXCEPTIONS; APPLICATION.

This chapter shall not apply with respect to any mobile home or house trailer parked or located within the corporate limits of the town prior to the passage of this chapter. However, if any such mobile home or house trailer is removed from the lot on which it is located, this chapter shall apply to any new or replacement mobile home or house trailer to be located on such lot.

(Ord. 292, passed 3-1-93)

§ 150.07 MANUFACTURED HOMES.

A manufactured home is a dwelling unit designed and built in the factory which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards law (42 U.S.C. 5402) as it existed on January 1, 1994. Manufactured homes shall be permitted in any of the residential districts, as long as they meet the following specifications:

(A) Minimum roof pitch of 4/12.

(B) All exterior walls, bearing walls, columns and piers shall be supported on continuous solid masonry or concrete footings and concrete or wood foundations. Foundations shall extend not less than the frostline depth of 36" below the finished grade. Footing sizes are based on soil with an allowable soil pressure of 2,000 lbs. per square foot. Footings on soil with a lower allowable soil pressure shall be designed in accordance with accepted engineering practices. Footings projections shall not exceed the footing thickness.

(C) 8" roof overhang, exclusive of gutters, on all roof ends and edges, minimum.

(D) Removal of any towing hitch, axles, and wheels.

(E) Minimum square footage of 960 square feet of occupied space and with a minimum width of 24 feet.

(F) Utilities connected in conformance with the One and Two Family Dwelling Code and with the manufacturer's installation specifications.

(G) Constructed after January 1, 1994.

(H) Exterior materials compatible with exterior materials on other residential structures in the immediate area (i.e. roofing material, vinyl siding, aluminum siding, brick facing).

(I) Pre-existing mobile homes on a lot not located in a mobile home park licensed by the State, which does not meet the above specifications may not be replaced by another home which does not meet these same specifications.

(J) Temporary placement for a construction office at a construction site must be properly removed upon the completion of the construction.
(Ord. 346, passed 2-1-99)

§ 150.08 MODULAR HOMES.

A modular home is any residence which is constructed in a manufacturing facility and transported to its final site by means completely separate from the residence and which meets the code requirements of the Building Officials and Code Administrators National Building Code (BOCA). Modular homes shall be permitted in any residential district.

§ 150.99 PENALTY.

Any mobile home or house trailer parked in the corporate limits of the town in violation of this chapter shall be deemed a nuisance and may be abated as such by the town or any person or persons injured thereby, and the person, corporation or any other entity violating this chapter shall be subject to a penalty of \$10 for each day that the mobile home or house trailer remains so parked, which penalty shall be recoverable in any court of competent jurisdiction.
(Ord. 292, passed 3-1-93)

CHAPTER 151: ZONING CODE

Section

General Provisions

- 151.01 Short title
- 151.02 Interpretation
- 151.03 Definitions
- 151.04 Procedure relating to annexed or vacated areas
- 151.05 Use
- 151.06 Height
- 151.07 Yard, lot area and size of building
- 151.08 Lots
- 151.09 Parking spaces; loading and unloading berths
- 151.10 Amendments
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- 151.12 Noninterference with greater restrictions otherwise imposed
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District Boundaries; Zoning Map

- 151.25 Establishment of districts; Zoning Map and description of districts
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Uses and Requirements

- 151.35 Residential uses; requirements
- 151.36 Business uses; requirements
- 151.37 Industrial uses; requirements
- 151.38 Contingent uses; requirements
- 151.39 Special exceptions; requirements, procedures
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Administration

- 151.50 Enforcement officer
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- 151.52 Site plans; permanent record
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- 151.65 Established
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- 151.67 Rules; regulations
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- Appendix A: Residential uses; requirements
- Appendix B: Business uses; requirements
- Appendix C: Industrial uses; requirements
- Appendix D: Contingent uses; requirements
- Appendix E: Special exceptions
- Appendix F: Zoning Maps

GENERAL PROVISIONS**§ 151.01 SHORT TITLE.**

This chapter, and ordinances supplemental or amendatory thereto, shall be known, and may be cited hereafter as the "Zoning Code of Mentone, Indiana, 1961."
(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.02 INTERPRETATION.

In interpreting and applying the provisions of this chapter they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience, and general welfare.
(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING AND USE. A building or use subordinate to another structure or use, located on the same lot and which does not change or alter the character of the premises and which is not used for human occupancy; and public utility communication, electric distribution and secondary power lines, gas, water, and sewer lines, their supports and poles, guy-wires, small transformers, wire or cable, and incidental equipment, and public telephone booths.

ALLEY. A permanent public service way providing a secondary means of access to abutting lands.

BLOCK A unit of property bounded by streets, or by streets and/or railroad rights-of-way, waterways or other barriers.

BLOCK FRONTAGE. Property having frontage on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway, or other barrier.

BOARD. This term shall mean the Board of Zoning Appeals.

BOARDING HOUSE. A building not open to transients, where lodging and/or meals are provided for three or more, but not over 30 persons regularly; a lodging house.

BUILDING. A structure having a roof supported by columns or walls, for the shelter, support, enclosure, or protection of persons, animals, chattels, or property. When separated by party walls, each portion of such a building shall be considered a separate structure.

BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING, FRONT LINE OF. The line of the face of the building nearest the front lot line.

BUILDING, HEIGHT OF. The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip, and gambrel roofs.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated. Where a part of an accessory building is attached to the principal building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

BUILDING AREA. The maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height, or architectural appurtenances projecting not more than two feet beyond the wall of the building.

BUILDING LINE — BUILDING SETBACK LINE. The line nearest the front, or side, of and across a lot establishing the minimum yard to be provided between the building or structure and the lot line.

BUSINESS. The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

CAMP, PUBLIC. Any area or tract of land used or designed to accommodate two or more camping parties, including cabins, tents, or other camping outfits.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CERTIFICATE OF OCCUPANCY. A certificate signed by the Building Commissioner stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

CLINIC or MEDICAL-HEALTH CENTER. An establishment where patients are admitted for special study and treatment by two or more licensed physicians or dentists, and their professional associates.

COMMISSION. This term shall refer to the Town Plan Commission.

DEVELOPMENT PLAN. A drawing, including a legal or site description of the real estate involved which shows the location and size of all existing and proposed buildings, structures and yards, location and dimension of building lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified or organized arrangement of buildings and service facilities and other improvements such as planting areas, and public parking areas, which shall have a functional relationship to the real estate comprising the proposed shopping center and to the uses of properties immediately adjacent to the proposed development.

DISTRICT. A section of the town and jurisdiction for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces about buildings are herein established.

DWELLING. A building or portion thereof, used primarily as a place of abode for one or more human beings, but not including hotels or motels, lodging or boarding houses, or tourist homes.

DWELLING UNIT. A dwelling or a portion of a dwelling used by one family for cooking, living, and sleeping purposes.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses' home, fraternity or sorority house.

FARM. A tract of land comprising an area which is devoted to agricultural operations, such as forestry; the growing of crops; pasturage; the production of live stock and poultry; the growing of trees, shrubs and plants; and other recognized agricultural pursuits and including accessory buildings essential to the operation of the farm. Accessory buildings may include barns; equipment and animal sheds; farm residences for the owner, operator, or farm assistants; roadside sales structure for the sale of products of the farm; and signs displaying subject matter directly related to the name or the products of the particular farm; but not including industrial or business operations or structures.

FILLING STATION. Any establishment supplying and selling motor fuel or oil direct to motor vehicles.

FLOOR AREA, GROSS. The total area, computed on a horizontal plane, within the outside dimensions of a building.

FLOOR AREA, GROUND. The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the ground floor level exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

FLOOR AREA, NET. The total area, computed on a horizontal plane, used for a particular business category; exclusive of entrances, hallways, stairs and other accessory areas used for ingress or egress.

GARAGE, PRIVATE. An accessory building with capacity for not more than three motor vehicles per family, not more than one of which may be a commercial vehicle of not more than three tons GVW. A

garage designed to house two motor vehicles for each family housed in a multi-family dwelling shall be classed as a private garage.

GARAGE, PUBLIC. Any building, except those defined herein as a **PRIVATE GARAGE**, used for the storage or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

HOME OCCUPATION. Any use conducted entirely within a dwelling and participated in solely by members of the family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and in connection with which there is no commodity sold upon the premises except that which is produced thereon, provided that no sign, other than a nameplate, nor exceeding three square feet in area, is displayed, and provided further that such nameplate is attached to the building.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

IMPROVEMENT LOCATION PERMIT. A permit signed by the Building Commissioner stating that a proposed improvement complies with the provisions of this chapter and such other ordinances as may be applicable.

JUNKYARD. Any place at which personal property is or may be salvaged for re-use, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or assorted, including, but not limited to, used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick, and similar property except animal matter; and used motor vehicles, machinery, or equipment which is used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

JURISDICTION. The territory within the jurisdiction of the Commission, described on a map entitled, "Mentone, Indiana, Jurisdictional Area," and filed with the County Recorder of Kosciusko County.

KENNEL. Any lot or premises on which four or more dogs, or small animals, at least four months of age, are kept.

LOADING AND UNLOADING BERTHS. The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this chapter is held to be a 12-foot by 40-foot loading space with a 14-foot height clearance, paved with a suitable dust preventive or hard surface.

LOT. A parcel, tract, or area of land accessible by means of a street or place. For residential uses as set forth in this chapter, the lot shall abut upon a street or place at least 50% of the lot width prescribed for the district in which the lot is located. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of, or a combination of such parcels when adjacent to one another and used as one. In determining lot area and boundary lines no part thereof within the limits of a street shall be included.

LOT, CORNER. A lot at the junction of and having frontage on two or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by the building area.

LOT, DEPTH OF. The mean horizontal distance between the front lot line and the rear lot line, measured in the general direction of the side lot lines.

LOT, GROUND LEVEL. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street; for buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; and for buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street is to be considered as adjoining the street.

LOT, INTERIOR. A lot other than a corner lot or through lot.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot a line separating the narrowest frontage of the lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the **FRONT LOT LINE**.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT, WIDTH. The dimension of a lot, measured between side lot lines on the building line.

MASTER PLAN. This term shall mean the complete plan, or any of its parts, for the development of the town, prepared by the Commission and adopted in accordance with IC 36-7-4-100 et seq., as amended, as is now or may hereafter be in effect.

MOBILE HOME. Any vehicle, including the equipment sold as a part of a vehicle, which is so constructed as to permit its being used as a conveyance upon streets by either self-propelled or nonself-propelled means which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, which is both used and occupied as a dwelling or sleeping place having no foundation other than wheels, jacks, skirting, or other temporary supports.

MOBILE HOME PARK. An area of land upon which two or more mobile homes are harbored for the purpose of being occupied either free of charge or for revenue purposes, and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of such **MOBILE HOME PARK**

MOTEL. A building or a detached building, usually not more than one story in height, used as dwelling units containing bedroom, bathroom and closet space, and each unit has convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients and no cooking facilities are offered. The site of the motel has direct and convenient access to an arterial thoroughfare or feeder thoroughfare.

PARKING AREA, PUBLIC. An open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers, paved with a suitable dust preventative or hard surface.

PUBLIC SPACE. A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than nine feet wide and 20 feet long exclusive of passageways.

PERSON. A corporation, firm, partnership, association, organization, or any other group acting as a unit, as well as a natural person, or persons.

PLACE. An open, unoccupied officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

PLAT. A map or chart indicating the subdivision or re-subdivision of land, intended to be filed for record.

PRIVATE SCHOOL. Private pre-primary, primary, grade, high, or preparatory school or academy.

PROFESSIONAL OFFICE. An office in the dwelling of a member of a recognized profession, such as an architect, attorney, dentist, engineer, physician, surgeon, or other such professional person, provided that the professional service is performed by a member or members of the family occupying such dwelling and that not more than one additional person, not a member of the family is employed in rendering such service, and provided further that not more than 50% of the floor area is devoted to such use and provided also that no sign, other than a nameplate attached to the building, not exceeding three square feet in area, is displayed.

PUBLIC UTILITY INSTALLATIONS. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal departments or commissions or for the furnishing of adequate service by such public utility or municipal departments or commissions or for the public health or safety or general welfare.

SIGN. Any advertising sign, billboard, or board, device, or structure or part thereof, or device attached thereto or painted or represented thereon, used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purpose of showing street names or traffic directions or regulations for other governmental purposes shall not be included.

STREET. A right-of-way or thoroughfare, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property.

STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the exterior walls or the roof.

TOURIST HOME. A building in which one but not more than five guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TOWN. This term shall mean the Town of Mentone, Indiana.

TOWN COUNCIL. This term shall mean the Town Council.

TRADE or BUSINESS SCHOOL. Secretarial or business school or college when not publicly owned or not owned or under the sponsorship of a religious, charitable, or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hairdressing, drafting, or for teaching industrial or technical arts.

USE. The employment or occupation of a building, structure, or land for a person's service, benefit, or enjoyment.

USE, NONCONFORMING. A lawful existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which such use is located.

VARIANCE. A modification of the specific requirements of this chapter granted by the Board of Zoning Appeals in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

VISION CLEARANCE ON CORNER LOTS. A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of three and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavements, and the triangular space is determined by a diagonal line connecting two points measured 15 feet equidistant from the intersection of the property lines or the property lines extended at the corner of the lot using each of the street right-of-way lines.

YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

YARD, FRONT. A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar structures, the depth of which is the least distance between the front lot line and the building line.

YARD, REAR. A yard extending across the full width of the lot between the rear of the principal building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of such principal building.

YARD, SIDE. A yard between the principal building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90° with the side lot line, from the nearest part of the principal building.

ZONING MAP. This term shall mean a map entitled "Mentone, Indiana, Zone Map, Sheets 1 and 2," of two, dated 1961, and any amendments thereto.
(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.04 PROCEDURE RELATING TO ANNEXED OR VACATED AREAS.

(A) Territory which may hereafter be annexed to the town shall remain as zoned unless changed by amendment to this Zoning Code.

(B) Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way, or similar areas shall be extended automatically to the center of such vacation and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, shall be extended automatically to include all of the vacated area.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.05 USE.

No building or land shall be used and no building shall be erected, reconstructed, or structurally altered, which is arranged, intended, or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.06 HEIGHT.

No building shall be erected, reconstructed, or structurally altered to exceed in height the limits established and specified for the use and the district in which such building is located.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.07 YARD, LOT AREA AND SIZE OF BUILDING.

No building shall be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of residential buildings, or lot coverage regulations, established and specified for the use and the district in which such building is located.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.08 LOTS.

Every building hereafter erected shall be located on a lot. In no case shall there be more than one principal building used for residential purposes, and its accessory buildings, located on one lot.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.09 PARKING SPACES; LOADING AND UNLOADING BERTHS.

Every building hereafter erected shall provide parking space for motor vehicles and loading and unloading berths as specified hereinafter for the use to which such building is to be devoted.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.10 AMENDMENTS.

All amendments to this chapter shall be in conformance with IC 36-7-4-507 through 36-7-4-509 and 36-7-4-607 through 36-7-4-611.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.11 FILING FEES.

Applications and petitions filed pursuant to the provisions of this chapter shall be accompanied by the filing fees hereinafter specified.

(A) For each application for a certificate of occupancy, the sum of \$5 shall be paid to and collected by the Building Commissioner, provided that for an application for an "Accessory Building and Use" the sum of \$2.50 shall be paid and collected by the Building Commissioner, when not applied for coincidentally for a use other than an accessory building and use.

(B) For each petition for an appeal from the decision of the Building Commissioner to the Board of Zoning Appeals, a fee of \$10 to be paid to and collected by the Building Commissioner, the receipt for which shall accompany the petition.

(C) For each application for the approval by the Board of a special exception, a fee of \$10 to be paid to and collected by the Building Commissioner, the receipt for which shall accompany the petition.

(D) For each petition for an amendment to this chapter, a fee of \$15 to be paid to and collected by the Building Commissioner, the receipt for which shall accompany the petition.

(E) No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.12 NONINTERFERENCE WITH GREATER RESTRICTIONS OTHERWISE IMPOSED.

It is not intended by this chapter to interfere with, or abrogate or annul any easements, covenants, or other agreements between parties, nor to interfere with, or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or provided, except, that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such easements, covenants, or agreements between parties, or by such ordinances, rules, regulations, or permits, the provisions of this chapter shall control.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.13 SIDEWALK SIGNS.

(A) Sidewalk signs may only be located in front of the business and be displayed only during the times the business is open to the public.

(B) Sidewalk signs may not be of a size that would impede the normal flow of pedestrians on the sidewalk.

(C) Sidewalk signs may not be displayed on the sidewalk when the business is closed.

(D) An office of the Mentone Police Department may issue a town ordinance violation citation to a person who violates this section, or fails to comply with any of the requirements. The fines imposed for a violation or non-compliance shall be as follows:

- (1) Fifty dollar (\$50) fine for the first violation;
- (2) Seventy-five dollar (\$75) fine for the second violation;
- (3) Two hundred dollar (\$200) fine for the third and all subsequent violations.

(E) Each day that there is non-compliance or violation of this section shall constitute a separate offense.

(Ord. 14-435, passed 1-13-14)

DISTRICT BOUNDARIES; ZONING MAP

§ 151.25 ESTABLISHMENT OF DISTRICTS; ZONING MAP AND DESCRIPTION OF DISTRICTS.

(A) The town and the jurisdiction are hereby classified and divided into seven districts designated as follows:

R-1 Residence District
R-2 Residence District
R-3 Residence District
B-1 Business District
I-1 Industrial District
I-2 Industrial District

(B) The Zoning Map, which accompanies and is hereby declared to be a part of this chapter, shows the boundaries of and the area covered by the districts. Notations, references, indications and other matters shown on the Zoning Map are as much a part of this chapter as if they were fully described herein.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

Cross-references:

See Zoning Maps in Appendix F of this chapter

§ 151.26 DETERMINATION; INTERPRETATION OF DISTRICT BOUNDARIES.

(A) In determining the boundaries of districts, and establishing the regulations applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the town and jurisdiction.

(B) Where uncertainty exists as to the exact boundaries of any district as shown on the Zoning Map, the following rules shall apply:

(1) In unsubdivided areas, or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the Zoning Map.

(2) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the Zoning Map as to the location of the boundary in question.
(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

USES AND REQUIREMENTS

§ 151.35 RESIDENTIAL USES; REQUIREMENTS.

(A) The residential uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Appendix A, when complying with the requirements listed therein, subject to the provisions of division (B) of this section.

(1) A **SINGLE-FAMILY DWELLING** is a detached building designed for or occupied by one family exclusively.

(2) A **TWO-FAMILY DWELLING** is a detached building designed for or occupied by two families.

(3) A **MULTI-FAMILY DWELLING** is a building designed for or occupied by three or more families, exclusively for dwelling purposes.

(B) Other provisions for residential uses are as follows:

(1) Area and width. A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted if the lot was a single parcel in single ownership, or a single parcel separately described or included in a deed or plat which was of record in the office of the County Recorder of Kosciusko County, Indiana, at the time of passage of this chapter even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

(2) Rear yard. One-half of an alley abutting the rear of the lot may be included in the required rear yard.

(3) Accessory buildings and uses.

(a) Accessory buildings are permitted in all districts, but not prior to the erection of the principal building.

(b) No accessory building shall be located closer to a side lot line than three feet nor exceed 18 feet in height and, if detached from the principal building, shall be set back at least 75 feet from the front line of the lot.

(c) Accessory uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, bird baths, and structures of a like nature are permitted in any required front, side, or rear yard.

(d) A private swimming pool may be permitted as an accessory use but located only within the side or rear yard, and which shall be enclosed with a fence of not less than five feet in height so as to prevent access by children or animals. If any side or sides of said swimming pool shall lie within ten feet of abutting residential use, a solid planting screen shall be provided which shall grow to a height of eight feet and a depth of six feet, or a solid screen of other suitable material to a height of eight feet, which will act as a sound barrier on said side or sides.

(e) Quarters for bonafide servants employed by the occupants of the dwelling may be permitted as an accessory use on the same lot as the dwelling, but only on the second floor of the building. One guest house with cooking facilities may be permitted as an accessory building on lots containing not less than one acre.

(4) Front yard.

(a) Where 25% or more of the lots in the block are occupied by buildings, the average setback of such buildings determines the dimension of the front yard in the block.

(b) Building lines or building setback lines established in a recorded subdivision shall establish the dimension of front yards in such subdivisions, except when such building setback lines may be less restrictive as provided in § 151.12.

(c) On through lots a front yard is required on each street.

(5) Tapered yard. Where a reversed interior lot abuts a corner lot, or an alley separating such lots, an accessory building located on the rear lot line of a corner lot shall set back from the side street as far as the dwelling on the reversed interior lot. For each foot that such accessory building is placed from the rear lot line toward the front lot line of the corner lot, the accessory building may be set four inches closer to the side street line, but in no case closer than five feet.

(6) Height. In the districts limiting height to 25 feet, a dwelling may be increased in height not to exceed 35 feet provided the required side yards are increased an additional foot for each foot such structure exceeds 25 feet in height.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.36 BUSINESS USES; REQUIREMENTS.

The business uses defined below are permitted in the districts indicated in Appendix B, § 1, when complying with the requirements specified in Appendix B, § 1, 2 and 3, subject to the provisions of division (C) of this section.

(A) A general business use is one which includes retail, service, wholesale and storage uses, and is classified in the following categories:

(1) Automobile service — including but not limited to the following:

- (a) Filling station.
- (b) Commercial parking structure.
- (c) Commercial parking lot.
- (d) Open automobile or mobile home sales area.
- (e) Automobile or mobile home sales room.
- (f) Automobile and truck repair, entirely within enclosed building(s).

(2) Business service — including but not limited to the following:

Mentone - Land Usage

- (a) Bank.
- (b) Office building.
- (c) Postal station.
- (d) Telegraph office.
- (e) Utility company business office.

(3) Clothing service — including but not limited to the following:

- (a) Laundry agency.
- (b) Self-service laundry.
- (c) Dry cleaning establishment using not more than two clothes-cleaning units neither of which shall have a rated capacity of more than 40 pounds using cleaning fluid which is nonexplosive and nonflammable.

- (d) Dressmaking.
- (e) Millinery.
- (f) Tailor and pressing shop.
- (g) Shoe repair shop.

(4) Equipment service — including but not limited to the following:

- (a) Radio or television shop.
- (b) Electric appliance shop.
- (c) Record shop.

(5) Food service — including but not limited to the following:

- (a) Grocery.
- (b) Meat market.
- (c) Supermarket.
- (d) Restaurant.
- (e) Delicatessen.
- (f) Cold storage lockers, for individual use.
- (g) Bakery.

- (h) Roadside sales stand.
- (6) Personal service — including but not limited to the following:
 - (a) Barber shop.
 - (b) Beauty shop.
 - (c) Reducing salon.
 - (d) Photographic studio.
- (7) Retail service, retail stores generally — including but not limited to the following:
 - (a) Drug store.
 - (b) Hardware.
 - (c) Stationer.
 - (d) Newsdealer.
 - (e) Show room, for articles to be sold at retail.
 - (f) Commercial greenhouse not exceeding 1,000 square feet in area.
 - (g) Apparel shop.
 - (h) Flower shop.
 - (i) Gift or antique shop.
- (8) Business Recreational Uses — including but not limited to the following:
 - (a) Indoor theater.
 - (b) Bowling alley.
 - (c) Billiard room.
 - (d) Dancing academy.
 - (e) Tavern or night club, only in conformity with requirements of laws or ordinances governing such use.
- (9) Private club or lodge.
- (10) Department store.
- (11) Hotel or motel.

- (12) Sign.
- (13) Storage warehouse.
- (14) Wholesale establishment.
- (15) Newspaper publishing.
- (16) Motor bus or railroad passenger station.
- (17) Radio and television studios.
- (18) Veterinary hospital for small animals and kennel.

(19) Any business use not specifically stated or implied elsewhere in this chapter and complying with the above definition.

(B) A roadside business use is a business use primarily of a retail or service nature and includes all general business uses.

(C) Other provisions and requirements for business uses are as follows:

(1) Parking spaces shall be provided on the lot, as indicated in Appendix B, § 2 or within 300 feet thereof on a site approved by the Board.

(2) Loading and unloading berths shall be provided on the lot as indicated in Appendix B, § 3.

(3) Parking requirements shall not apply in a block where 50% or more of the area was occupied by business or industrial structures at the time of passage of this chapter.

(4) Groups of uses requiring parking space may join in establishing group parking area with capacity aggregating that required for each participating use.

(5) Public parking area and loading and unloading berths shall be paved with a dust-proof or hard surface.

(6) One-half of an alley abutting the rear of a lot may be included in the rear yard, but such alley space shall not be included for loading and unloading berths.

(7) Where 25% or more of the lots in a block are occupied by buildings the setback of such buildings shall determine the dimension of the front yard in the block.

(8) Loading and unloading berths shall not be required for business uses which demonstrably do not receive or transmit goods or wares in quantity by truck delivery.

(9) Parking and accessory uses are permitted in the required front yard in the business districts.

(10) The maximum building height requirement in Appendix B, § 1, may be increased if buildings are set back, from front and rear property lines, one foot for each two feet of additional height above the

maximum building height requirement.

(11) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers, or essential mechanical appurtenances, may be erected to any height not prohibited by other laws or ordinances.

(12) No business operation or activity shall discharge or cause to be discharged, liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the State of Indiana (IC 13-1-1-1 et seq.) and the regulations promulgated thereunder. Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be submitted to and approval obtained from the Stream Pollution Control Board of the state.

(13) In all business districts it is permissible to erect more than one principal building on a lot. (Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

Editor's note:

I.C. 13-1-1-1 et seq. was repealed in 1996. For present water pollution control laws, see I.C. 13-18.

§ 151.37 INDUSTRIAL USES; REQUIREMENTS.

The industrial uses defined below, including accessory buildings and uses, are permitted in the district indicated in Appendix C, § 1, in accordance with the requirements of this section.

(A) A **LIGHT INDUSTRIAL USE** is one which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings, does not use the open area around such buildings for storage of raw materials or manufactured products or for any other industrial purpose other than transporting goods between buildings; provides for enclosed loading and unloading berths; and which is not noxious or offensive by reason of the emission of smoke, dust, fumes, gas, odors, noises or vibrations beyond the confines of the building.

(B) An **INDUSTRIAL USE** is one which requires both buildings and open area for manufacturing, fabricating processing, repairing, dismantling, storage or disposal of raw materials, manufactured products, or wastes, which is not injurious to health or safety of humans or animals, or injurious to vegetation, and which is not noxious or offensive by reason of emission of smoke, dust, gas, fumes, odors, or vibrations beyond the limits of the premises upon which such industry is conducted. Included in this classification are all industrial uses fully complying with the above definition, plus:

(1) Automobile wrecking or junk storage as a special exception, permitted in accordance with the procedure specified in § 151.39.

(2) Poultry slaughtering and wholesaling.

(3) Truck storage yard.

(4) Bulk storage of inflammable fluids in above ground tanks, but not oil refinery tanks.

(5) Truck terminal.

(6) Railroad freight house.

(7) Utilities storage yard.

- (8) Coal, coke or wood yard.
- (9) Lumber yard.
- (10) Contractor's plant or storage yard.
- (11) Bus line shops or garage.
- (12) Building material storage yard.
- (13) Carting, express, hauling or storage yard.

(C) Water pollution. No industrial operation or activity shall discharge, or cause to be discharged, liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the state (IC 13-1-1-1 et seq.) and the regulations promulgated thereunder. Plans and specifications for proposed sewage and industrial waste treatment and disposal facilities shall be submitted to and approval obtained from the Stream Pollution Control Board of the state.

(D) Other provisions and requirements for light industrial and industrial uses are as follows;

- (1) Each use shall provide parking space for each three employees thereof located on the same lot as the use, or within 300 feet on a site approved by the Board.
- (2) Each industrial use shall provide loading and unloading berths located on the same lot as the use, as specified in Appendix C, § 2.
- (3) Parking space requirements may be waived by the Board where 50% or more of the area in a block was occupied by business or industrial structures at the time of passage of this Zoning Code.
- (4) Groups of uses requiring parking space may join in establishing group public or employee parking areas with capacity aggregating that required for each participating use.
- (5) One-half of an alley abutting the rear of a lot may be included in the rear yard, but such alley space shall not be included for loading and unloading berths.
- (6) The building height requirement in Appendix C, § 1 may be increased if the buildings are set back, from front and rear property lines, one foot for each two feet of additional height above the maximum building height requirements.

(7) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, tanks, water towers, transmission towers, or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(8) In all industrial districts it is permissible to erect more than one principal building on a lot. (Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

Editor's note:

I.C. 13-1-1-1 et seq. was repealed in 1996. For present water pollution control laws, see I.C. 13-18.

§ 151.38 CONTINGENT USES; REQUIREMENTS.

Contingent uses defined below, including accessory buildings and uses, are permitted in the districts

indicated in Appendix D, § 1.

(A) A contingent use is one which is likely or liable but not certain, to occur, and which is not inappropriate to the principal use of the district in which it may be located. When so located it shall conform to the requirements of the district in which the contingent use is permitted, except that the number of parking spaces to be provided shall conform to the requirements of Appendix D, § 1. The required number of parking spaces shall be provided on the same lot with the use, or within 300 feet thereof on a site approved by the Board of Zoning Appeals.

(B) The building height for contingent uses shall be as provided in Appendix D, § 2.

(C) Other provisions and exceptions for contingent uses are as follows:

(1) The building height requirement in Appendix D, § 2, may be increased if buildings are set back, from front and rear property lines, one foot for each two feet of additional height above the building height requirement.

(2) In all districts, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(3) A church or temple requiring parking area at times when nearby uses do not need their parking facilities may, by agreement approved by the Board, utilize such facilities in lieu of providing their own parking facilities.

(4) Public parking area shall be paved with a dust-proof or hard surface.

(D) An existing use which is listed herein as a contingent use, and which is located in a district such contingent use may be permitted is a conforming use. Any expansion of such contingent use involving the enlargement of the buildings, structures and land area devoted to such use, shall be subject to the procedure described in this section.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.39 SPECIAL EXCEPTIONS; REQUIREMENTS, PROCEDURES.

(A) The special exceptions listed in Appendix E and their accessory buildings and uses may be permitted by the Board of Zoning Appeals in the districts indicated therein, in accordance with the procedure set forth in this section and the requirements listed in Appendix E.

(B) Upon receipt of an application for an improvement location permit for a special exception by the Building Commissioner, it shall be referred to the Commission for investigation as to the manner in which the proposed location and character of the special exception will affect the master plan. The Commission shall report the results of its study to the Board within 45 days following receipt of the application. If no such report has been filed with the Board within this time period, the Board may proceed to process the application.

(1) The Board shall then proceed with a hearing on the application in the manner prescribed in §§ 151.65 through 151.72. Following the hearing, and upon an affirmative finding by the Board that:

(a) The proposed special exception is to be located in a district wherein such use may be permitted; and

(b) The requirements set forth in Appendix E for such special exception will be met; and

(c) The special exception is consistent with the spirit, purpose, and intent of this chapter, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare.

(2) The Board shall order the Building Commissioner to issue an improvement location permit for the special exception.

(C) An existing use which is listed herein as a special exception, and which is located in a district in which such special exception may be permitted, is a conforming use. Any expansion of such special exception involving the enlargement of the buildings, structures, and land area devoted to such use shall be subject to the procedure described in this section.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.40 NONCONFORMING USE SPECIFICATIONS.

The lawful use of a building or premises, existing at the time of passage of this chapter, may be continued although such use does not conform to all the provisions of this chapter, except as hereinafter provided.

(A) A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

(B) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural alterations are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted one.

(C) No building shall be erected upon any premise devoted to a nonconforming use, except in conformance with regulations of this chapter.

(D) The Board may authorize, by written permit, in any residence district for a period of not more than one year from date of such permit, a temporary building for business or industrial use incidental to the residential construction and development of said district.

(E) Nothing herein contained shall require any change in the plans, construction, or designated use of a building for which a building permit or improvement location permit has been heretofore issued, and the construction of which has been diligently prosecuted within 90 days of the date of such permit and which entire building shall be completed according to such plans filed within three years from the date of passage of this chapter.

(F) In the event that a nonconforming use of any building or premises is discontinued for a period of one year, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

(G) Nothing in this chapter shall prevent the restoration of a building or structure destroyed less than 50% of its assessed valuation at the time of such destruction (exclusive of the value of the lot) by explosion, fire, flood, earthquake, windstorm, act of God, riot, or act of the public enemy, subsequent to the passage of this Zoning Code; or shall prevent the continuance of the use of such building, structure or part thereof, as such use existed at the time of such impairment of such building, structure, or part thereof. The extent of the damage to the structure shall be determined by the Board and its decision shall be final, subject only to judicial review in the event of an arbitrary abuse of discretion of said Board.

(H) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79) Penalty, see § 151.99

§ 151.41 FENCES.

(A) *Purpose.* It is the intent of this section to set forth regulations and general provisions for the construction and maintenance of fences that are consistent with the spirit, purpose and intent of this chapter that will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare.

(B) *Definition.* For the purpose of the fence regulations contained in this section, a **FENCE** is a structure, zero feet to eight feet in height that serves as an enclosure or barrier.

(C) *Regulations and intent.* It is recognized that in many instances, it is desirable to have fences. It is the intent of this section to encourage beneficial use of fencing in order to create a more attractive environment. It is further the intent of this section to foster and improve the vitality of the community by enhancing and protecting the physical appearance of the community. In order to accomplish this purpose, it is necessary to regulate the size, location, construction, material and appearance of fences as set forth in this section.

(D) *General provisions.*

(1) All fences shall be constructed of uniform material, color and height, provided however, that all other provisions of this chapter must be adhered to.

(2) An improvement location permit shall be obtained before erecting. Permit fees shall be in accordance with the permit fee schedule.

(3) All fencing shall be maintained in a good state of repair. Painted fences shall be painted in a manner to not offend the community. Painted fences shall be repainted whenever peeling or uneven fading or streaking occurs. The town may order the removal of any fence which becomes a public hazard or public eyesore due to lack of maintenance or repair.

(4) All fencing shall be erected so as to place the good side of the fence facing away from the property owner erecting the fence. For the purpose of this section, **GOOD SIDE** shall mean that the side of the fence which is the smoothest and reveals the least extent the support members of the fence. The exception to this would be a two-sided fence where the support posts are in line with the fence material being applied.

(5) Material and types. Fences and the support posts must remain uniform and may be constructed of a recognized fence material and fence style. Such as the following, but not limited to, natural plant material fences, wood, chain-link, vinyl, iron, aluminum, stone and brick. The following is material that is prohibited: skids, cattle fence, barb-wire, wire horse fence, railroad ties, landscape timbers, small garden fencing, metal roof or wall panels, wood or vinyl lattice panels, tires, block, timbers, concrete, piping or any other material that the town deems hazardous or an eyesore to the community.

(E) *Requirements by district.* The following fencing regulations shall apply in the appropriate zoning districts as set forth below.

(1) R-1, R-2, R-3 Residential Districts as follows:

(a) No setback requirements on side and rear property lines, provided property is not bordered by a street, alley or other public easement.

(b) No fence to exceed six feet in height in rear and side yards and no fence to exceed four feet in height in front yard. Fencing shall make a smooth transition in heights ranging six feet to four feet from side to front. For the purpose of this section, **FRONT YARD** shall be the area that is the front of the primary structure on the lot to the road.

(c) All fences that are greater in height of four feet and wishing to be placed in a front yard, and are of ornamental design and height must have unanimous approval of the Town Council at their meeting. (Example: Six-foot wrought iron fence with brick pillars.)

(d) Signs and/or banners are prohibited on fences.

(e) No fence shall be erected on a lot that does not have a primary structure.

(f) No fence may engulf, or be placed over or on a public sidewalk or tree lawn as in Figure 1 below.

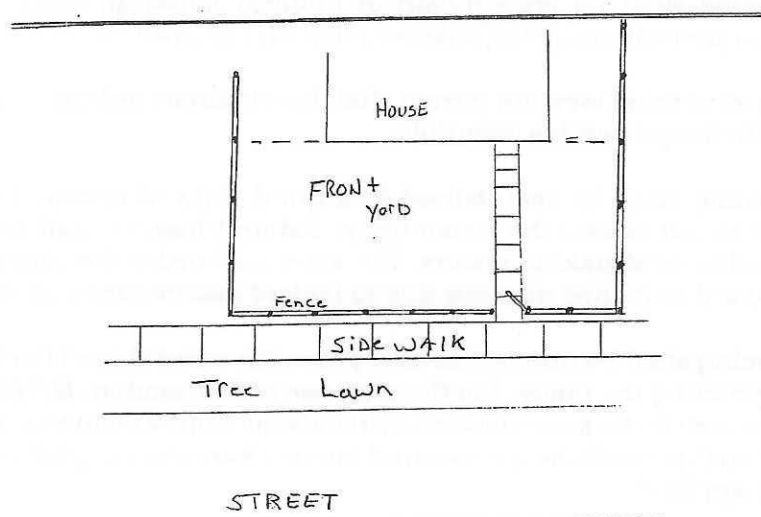


Figure 1

(g) No fence may be erected closer to an alley than three feet provided, however, vision requirements must be met at all intersections with streets or other alleys as provided in division (F) below.

(h) Electronic pet detainment systems and small garden fences surrounding a garden and not higher than three feet shall be exempt from improvement location permits, but shall comply with all setbacks, as outlined in this section.

(2) B-1, B-2, I-1, 1-2 Business and Industrial Districts as follows:

(a) All setback requirements shall be as required for a structure and as in division (F) below, unless a setback variance is granted and recorded by the Town Council.

(b) Fence shall not exceed six feet in height in a B-1 and B-2 district, and eight feet in height in an I-1 and 1-2 district.

(c) No fence shall be used for the display of a sign, and or banner, or advertising. The exception shall be short-term seasonal sporting and recreational parks.

(F) *Vision clearance.* In order to provide a clear, unobstructed vision along right-of-ways, the following requirements shall apply.

(1) *Interior lots.* No fence or visual obstruction between three feet and six feet in height shall hereafter be erected within ten feet of the front property line, and no natural plant material fences, exceeding 36 inches in height shall be permitted within this same area. These requirements shall not apply to trees having a minimum clearance of ten feet above ground.

(2) *Corner lots.* No fence shall hereafter be erected within ten feet of either front property line and side yard road side, and no natural plant material fence or other planting exceeding 24 inches in height, shall be permitted within this same area. These requirements shall not apply to trees having a minimum clearance of ten feet above the ground.

(3) *Lots with alley intersections.* No fence may be erected closer to an alley than three feet. However, no solid fence may be erected within seven feet of the lot line perpendicular to the fence, and no natural plant material fence or other plantings exceeding 24 inches in height shall be permitted within this same area. The following vision triangle must be created as in Figure 2 below.

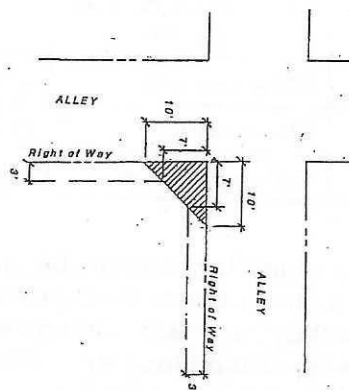


Figure 2

(C) This section does not apply to existing fences and said fences may be repaired and maintained from time to time. However, pre-existing fences which do not meet the above specifications may not be replaced by another fence which does not meet these same specifications. (Ord. 381-06, passed 12-4-06)

§ 151.42 ACCESSORY BUILDINGS AND USES.

(A) *Accessory structures.* Accessory structures may be permitted in all zone districts in accordance with the provision of this section:

(1) Shall be incidental to, subordinate to, and commonly associated with the operation of the principal use of the lot.

(2) An improvement location permit shall be obtained before erection of the structure. Permit fees shall be in accordance with the permit fee schedule.

(3) Shall be operated and maintained under the same ownership and on the same lot, or adjoining lots, as the principal use. If the accessory building is on an adjoining lot, the owner shall provide a restrictive covenant, which stipulates that the adjoining lots will not be sold separately from each other, this includes if the principal building is destroyed by any of the following, but not limited to, rain, hail, snow, ice, wind, lightening, tornado, fire, flooded, insects, storm-surge or any other incident which might make the structure deemed unsafe and order to be demolished. The lots may not be sold separately. The restrictive covenants shall be recorded at the Kosciusko County Recorder's Office. A copy of the recorded document must be provided to the Building Commissioner before the issuance of an improvement location or building permit. This section shall apply to existing accessory structures currently on adjoining lot.

(4) Shall meet the following heights, size and setback regulations.

(a) Residential Districts.

1. The height of the structure shall be limited to 18 feet.
2. The size of the structure shall be limited as shown in the table below.

<i>LOT SIZE</i>	<i>TOTAL MAXIMUM SIZE OF ACCESSORY BUILDING</i>	<i>EXAMPLE</i>
Less than 10,000 square feet	720 square feet	24 feet by 30 feet
10,001 - 25,000 square feet	864 square feet	24 feet by 36 feet
25,001 square feet and over	1,200 square feet	24 feet by 50 feet

3. A detached accessory building shall not be located in any required front yard. It may be located within five feet of either side property line, provided such accessory building is six feet or more behind the rear line of both the principal building and the nearest adjacent principal building. A detached accessory building may also be located within five feet of a rear property line provided no public easement is located along such rear lot line.

4. The accessory building shall be used for the storage of personal property only and shall not be used for any commercial or industrial purpose.

5. No more than two accessory buildings shall be permitted per zone lot. Both accessory buildings shall be combined square footage and comply with the table as shown above.

(b) Commercial and Industrial Districts.

1. The height, size, and setback regulations for accessory buildings are the same as for the principal building.

(5) Shall not be permitted before the erection and operation of the principal use, except as a temporary (less than one-year) use.

(6) Shall require an improvement location or building permit, except as otherwise provided in division (B) below.

(B) *Accessory structures exempt from improvement location permits and setback requirements.* Accessory buildings or structures not exceeding 120 square feet, and decks or patios not exceeding 18 inches from grade and not exceeding 200 square feet in size, and swimming pools that are not of solid, permanent design and structure (inflatable pools), are exempt from an improvement location permit. Also, other accessory structures including, but not necessarily limited to, sidewalks, driveways, curbs, drainage installations, boathouses, sea walls, retaining walls, dumpster pads, mailboxes, nameplates, lamppost, and birdbaths are permitted in any required front, side, or rear yard without the issuance of any permit. However, such structures shall be subject to all other regulations for accessory structures found in division (A) above.

(C) This section does not apply to existing accessory buildings and their uses and said accessory buildings may be repaired and maintained from time to time. However, preexisting accessory buildings which do not meet the above specifications may not be replaced by another accessory building which does not meet these same specifications.
(Ord. 382-06, passed 12-4-06)

ADMINISTRATION

§ 151.50 ENFORCEMENT OFFICER.

The Building Commissioner is hereby designated and authorized to enforce this chapter, and it is hereby declared that the intent of the permit requirements of this chapter shall not prevail with respect to a farm.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.51 IMPROVEMENT LOCATION PERMIT.

(A) Within the town, and its jurisdictional area, which is the territory within the jurisdiction of the Town Plan Commission, described on a map entitled "Mentone, Indiana, Jurisdictional Area," and

filed with the County Recorder of Kosciusko County, no structure, or improvement, or use of land may be altered, changed, placed, erected, or located on platted or unplatted lands, unless the structure, improvement or use, and its location, conform with the master plan and ordinance of the town and an improvement location permit for such structure, improvement or use has been issued. It is hereby declared that the intent of the permit requirements of this chapter shall not prevail with respect to farms, municipal or governmental buildings or public utility installations.

(B) The Building Commissioner of the town shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use and its location conform in all respects to the master plan.

(C) Any person, which shall make application for an improvement location permit shall, at the time of making such application furnish the City Building Commissioner with a site plan or development plan for the real estate upon which the application for an improvement location permit is made at least five days prior to the issuance of the improvement location permit, which five-day period may be waived by the Building Commissioner. The site plan shall be drawn to scale showing the following items.

- (1) Legal or site description of the real estate involved.
- (2) Location and size of all buildings and structures.
- (3) Width and length of all entrances and exits to and from the real estate.
- (4) All adjacent and adjoining roads or highways.

(D) Application for an improvement location permit shall be accompanied by a fee of \$5, provided that application for an improvement location permit for an accessory building and use as defined in § 151.03, shall be accompanied by a fee of \$2.50, when not applied for concurrently for a use other than an accessory building and use. The fee shall be paid to and collected by the Building Commissioner.

(Ord. 158, passed 11-21-61; Am. Ord. 159, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.52 SITE PLANS; PERMANENT RECORD.

Site plans so furnished to the Building Commissioner shall be filed by the Building Commissioner and shall become a permanent record.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.53 APPROVAL OF BOARD REQUIRED BEFORE ISSUANCE OF PERMIT FOR SPECIAL EXCEPTION.

The Building Commissioner shall issue an improvement location permit for a special exception only following receipt of notice from the Board of Zoning Appeals that the application therefor has been approved by the Board.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.54 CERTIFICATE OF OCCUPANCY; SPECIFICATIONS.

(A) No land shall be occupied or used and no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued by the Building Commissioner stating that the building and use comply with all of the provisions of this chapter applicable to the building or premises or the use in the district in which it is to be located. Upon completion of the improvement covered by the Improvement Location Permit, the Building Commissioner shall inspect the premises, and, if his inspection shall reveal that the improvement has been completed in substantial conformity with the site plan submitted pursuant to §§ 151.51(D) and 151.53, he shall issue a certificate of occupancy.

(B) No change shall be made in the use of land (except farm) or in the use of any building or part thereof (except farm, municipal or governmental buildings and public utility installations), now or hereafter erected, reconstructed, or structurally altered, without a certificate of occupancy having been issued by the Building Commissioner, and no such permit shall be issued to make such change unless it is in conformity with the provisions of this chapter.

(C) A certificate of occupancy shall be applied for coincidentally with the application for an improvement location permit and shall be issued within ten days after the lawful erection, reconstruction, or structural alteration of such building or other improvement of the land shall have been completed.

(D) A record of all certificates of occupancy shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(E) No improvement location permit shall be issued for excavation for, or the erection, reconstruction, or structural alteration, of any building, before application has been made for a certificate of occupancy.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

BOARD OF ZONING APPEALS**§ 151.65 ESTABLISHED.**

A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with IC 36-7-4-902 and all amendments thereto.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.66 SELECTION OF OFFICERS; COMPENSATION.

At the first meeting of each year, the Board of Zoning Appeals shall elect a Chairperson and a Vice Chairperson from among its members, and it may appoint and fix the compensation of the Secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the Town Council.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.67 RULES; REGULATIONS.

The Board of Zoning Appeals shall adopt such rules and regulations as it may deem necessary to effectuate the provisions of this chapter.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.68 PUBLIC MEETINGS; RECORDS TO BE KEPT AND FILED.

All meetings of the Board of Zoning Appeals shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of each member voting upon each question. All minutes and records shall be filed with the office of the Board and shall be of public record.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.69 DECISIONS OF THE BOARD; RIGHT TO APPEAL; REVIEW BY CERTIORARI.

(A) Any decision of the Building Commissioner in the enforcement of this chapter may be appealed to the Board of Zoning Appeals by any person claiming to be adversely affected by such decision.

(B) The Board shall have the following powers and it shall be its duty to do the following:

(1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner in the enforcement of this chapter.

(2) Hear and decide on permits for special exceptions or other uses upon which the Board is required to act under this chapter.

(3) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done.

(C) In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Commissioner from whom the appeal is taken.

(D) Every decision of the Board shall be subject to review by certiorari.
(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.70 VARIANCES.

No variance in the application of the provisions of this chapter shall be made by the Board of Zoning Appeals relating to buildings, land, or premises now existing or to be constructed, unless after a public hearing, the Board shall find the following:

(1) There are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or class or use in the same vicinity and district.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district but which is denied to the property in question.

(3) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

(4) The granting of the variance will not alter the land use characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements, or increase the congestion in the streets.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.71 HEARING PRIOR TO DETERMINATION OF APPEAL; PUBLIC NOTICE.

Prior to the determination of an appeal or a decision on a permit for a special exception, the Board shall fix a reasonable time for a hearing. Public notice shall be given at least ten days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation in the city setting forth the time and place of the hearing and by giving due notice to the interested parties in accordance with the rules of the Board.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.72 COST OF PUBLIC NOTICE TO BE BORNE BY APPELLANT.

The Board shall require the party taking the appeal to assume the cost of public notice and due notice to the interested parties.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.73 REMEDIES.

(A) The Commission, the Board, the Building Commissioner, or any designated enforcement official, or any person jointly or severally aggrieved, may institute a suit for injunction in the circuit court of the county to restrain an individual or a governmental unit from violating the provisions of this chapter.

(B) The Commission or the Board may also institute a suit for mandatory injunction directing any individual, a corporation, or a governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building erected, raised, or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or hereafter may be abated under existing law.

(Ord. 158, passed 11-21-61; readopted by Ord. 225, passed 8-6-79)

§ 151.99 PENALTY.

Any person, firm, or corporation who violates any provision of this Zoning Code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
(IC 36-1-3-8(10))

APPENDIX A: RESIDENTIAL USES; REQUIREMENTS

Section

1 Type of residential use; requirements

REQUIREMENTS	TYPE OF RESIDENTIAL USE		
	Single-Family Dwelling	Two-Family Dwelling	Multi-Family Dwelling
District in which use is permitted	R1, R2, R3, B1, B2, I1, I2	R1, R2, R3, B1, B2, I1, I2	R3, B1, B2, I1
Minimum lot size in square feet per dwelling unit in districts indicated	R1, B2, I2 — 20,000 R2 — 12,000 R3, B1, I1 — 7,000	R1, I2 — 20,000 R2, B2 — 10,000 R3, B1, I1 — 3,500	R3 — 2,500 B1, I1 — 2,000 B2 — 10,000
Minimum lot width in feet in districts indicated	R1, B2, I2 — 100 R-2 — 70 R3, B1, I1 — 48	R1, I2 — 200 R2, B2 — 100 R3, B1, I1 — 48	R3, B1, I1 — 48 B2 — 100
Maximum building height in feet in districts indicated	R1, R2, B2, I2 — 25 R3, B1, I1 — 35	R1, R2, B2, I2 — 25 R3, B1, I1 — 35	R3, B2, I1 — 35 B1 — 45
Minimum front yard in percent of average depth of lots in block	20	20	20
Minimum side yard (one)	5 feet	5 feet	5 feet
Minimum side yards (both or two) in percent of lot width	20	20	20
Minimum rear yard in feet	20	15	15
(Minimum ground floor area in square feet in districts indicated)	One Story R1, R2, B2, I2 — 720 R3, B1, I1 — 672 Two Story R1, R2, B2, I2 — 672 R3, B1, I1 — 672	R1, R2, B2, I2 — 1, 200 R3 — 1,000 B1, I1 — 900	First two units, same as "two family dwelling," plus additional area per unit: R3, I1 — 300 B1 — 200 I1 — 400
Number of vehicle parking spaces to be provided on the lot	one	two	One for each dwelling unit
Maximum lot coverage in percent of lot	35	35	40
Vision clearance on corner lot.	yes	yes	yes

Mentone - Land Usage

APPENDIX B: BUSINESS USES; REQUIREMENTS

Section

- 1 Type of business use; requirements
- 2 Parking spaces required
- 3 Loading and unloading berths required

§ 1 TYPE OF BUSINESS USE; REQUIREMENTS.

REQUIREMENTS	TYPE OF BUSINESS USE	
	General Business	Roadside Business
Districts in which use is permitted	B1, B2, I1	B2
Minimum front yard in feet in districts indicated	B1 — None B2 — 60 I1 — 15	B2 — 60
Minimum side yard in feet along the side street line of a corner lot where block is adjoined by a residential district	5	10
Minimum side yard in feet where a business district adjoins a residential district within the block	5	10
Minimum side yard in blocks not including a residential district	None	5
Maximum building height in feet in districts indicated	B1 — 45 B2 — 35 I1 — 60	B2 — 35
Minimum rear yard in feet	15	15
Maximum lot coverage in percent of lot	90	80
Vision clearance on corner lots	yes	yes

§ 2 PARKING SPACES REQUIRED.

<i>TYPE OF USE</i>	<i>PARKING SPACES REQUIRED</i>
General Business & Roadside Business Uses:	
Automobile and Truck Repair	One for each 200 square feet of floor area
§ 151.36 division (A)(2)	One for each 500 square feet of floor area
§ 151.36 divisions (A)(3) through (A)(7)	One for each 125 square feet of floor area
Indoor Theater	One for each six seats
Bowling Alley	Three for each lane plus one for each six spectator seats
Dancing Academy	One for each 200 square feet of floor area
Private Club or Lodge	Space to accommodate 50% of the active membership at one space per each three members
Department Store	One for each 200 square feet of floor area
Hotel	One for each three employees plus one for each 2 sleeping rooms
Motel	One for each three employees plus one for each unit
Storage Warehouse and Wholesale Establishment	One for each three employees or occupants. The maximum number of employees or occupants to be used in determining spaces.
Motor Bus or Railroad Passenger Station	One for each three employees plus one for each ten seats in waiting room. Other retail uses in connection therewith shall provide one space for each two employees.
Veterinary Hospital for Small Animals or Kennel	One space for each three animals to be confined in temporary or permanent pens or cages.
§ 151.36 division (A)(19)	As determined by the Board

§ 3 LOADING AND UNLOADING BERTHS REQUIRED.

<i>TYPE OF USE</i>	<i>GROSS FLOOR AREA (Sq. Ft.)</i>	<i>LOADING AND UNLOADING BERTHS REQUIRED</i>
Retail Stores	3,000 to 15,000	1
Department Stores	15,001 to 40,000	2
Wholesale Establishments, Storage Uses and Other Business Uses	Each 25,000 Additional	1 Additional
Office Buildings	100,000 or Less	1
	100,001 to 336,000	2
	Each 200,000 Additional	1 Additional

STATE OF CALIFORNIA - DEPARTMENT OF AGRICULTURE

LAND USE IN MENTONE, CALIFORNIA

LAND USE	ACRES	PERCENT OF TOTAL
AGRICULTURE	1,200	40.0
FOREST	1,800	60.0
RESIDENTIAL	100	3.3
COMMERCIAL	50	1.7
INDUSTRIAL	50	1.7
UNDEVELOPED	100	3.3
TOTAL	3,000	100.0

Source: U.S. Census Bureau, 1970

APPENDIX C: INDUSTRIAL USES; REQUIREMENTS

Section

1. Type of use; requirements
2. Loading and unloading berth requirements

§ 1 TYPE OF USE; REQUIREMENTS.

<i>REQUIREMENT</i>	<i>TYPE OF USE</i>	
	<i>LIGHT INDUSTRIAL</i>	<i>INDUSTRIAL</i>
District(s) in which use is permitted	B1, B2, I1, I2	I1, I2
Minimum front yard in feet	B1 — none B2 — 60 I1 — 15 I2 — 40	I1 — 15 I2 — 40
Side yard required in feet	B1, I1 — none B2 — 5 I2 — 10	I1 — none I2 — 10
Minimum side yard in feet, if provided	B1, I1 — 5	I1 — 5
Minimum rear yard in feet	B1, B2, I1, I2 — 15	I1, I2 — 15
Maximum building height in feet	B1 — 45 I1 — 60 B2, I2 — 35	I1 — 60 I2 — 35
Maximum lot coverage in percent of lot	B1, I1 — 90 B2 — 70 I2 — 50	I1 — 90 I2 — 50
Vision clearance on corner lots	yes	yes

§ 2 LOADING AND UNLOADING BERTH REQUIREMENTS.

<i>GROSS FLOOR AREA OF INDUSTRIAL USE IN SQUARE FEET</i>	<i>NUMBER OF BERTHS REQUIRED</i>
15,000 or Less	1
15,001 to 40,000	2
40,001 to 100,000	3
Each 40,000 Additional	1 Additional

APPENDIX D: CONTINGENT USES; REQUIREMENTS

Section

- 1 Type of use; number of parking spaces required
- 2 Maximum height

§ 1 TYPE OF USE; NUMBER OF PARKING SPACES REQUIRED.

<i>TYPE OF USE</i>	<i>DISTRICT(S) IN WHICH USE IS PERMITTED</i>	<i>NUMBER OF PARKING SPACES TO BE PROVIDED</i>
Boarding or Lodging House	R3, B1, B2, I1	One for each 3 occupants
Church or Temple	All	One for each 6 seats in main auditorium
College or University	All	One for each 3 students and staff
Farm	All	Not applicable
Fraternity, sorority and student cooperatives	All except R1	One for each 3 occupants
Home occupation	All	One additional
Lodge or private club (which is of a non-commercial character)	R3, B1, B2, I1	One for each 125 square feet floor area of building(s)
Mortuary	R3, B1, B2, I1	One for each 6 seats in main auditorium
Municipal or governmental building	All	One for each 125 square feet floor area of building(s)
Nursing home or homes for the aged	R3, B1, B2, I1	One for each 7 persons
Professional office in residence of practicing professional person	All	Two additional
Plant nursery	All	None required
Public Utility Installations	All	None required
School, public or parochial	All except I1	One for each 3 members of staff plus one each 8 seats in auditorium
Temporary sign, pertaining to lease, hire or sale of a building or premises	All	Not applicable

§ 2 MAXIMUM HEIGHT.

<i>DISTRICT(S) IN WHICH USE IS PERMITTED</i>	<i>MAXIMUM BUILDING HEIGHT IN FEET</i>
R1, R2, B2, I2	25
R3	35
B1, I1	45

APPENDIX E: SPECIAL EXCEPTIONS

Section

1 Requirement designations

(A)

	<i>DISTRICT(S) IN WHICH USE MAY BE PERMITTED</i>	<i>REQUIREMENT DESIGNATION (See chart in (B))</i>
Airport or Heliport	R1, B2, I2	b6(Heliport), b12(Airport), g, h2, i1 (Airport), i2(Heliport), j1, k1, l2, n2, p, r1, s, t, u2, v, w
Artificial Lake of 3 or more acres	All	c1, i1, j1, p, r1, u1, v, w
Cemetery or Crematory	All except B1	b11, c2, p, q, r1, v, w
Clinic or Medical Health Center	R3, B1, B2, I1	b1, c3, h4, j1, k3, l1, r1, v, w, y
Country Club or Golf Course	All	c1, d3, j1, k5, l1, p, r1, v, w
Greenhouse, Commercial	All	b4, c6, f2, h1, k7, m4, n1, r1, v, w, y
Hospital	All	b7, c6, g, h5, j1, k9, l2, m5, n1, p, s, t, v, y
Industrial Park	All	a1, b10, c7, d3, g, h3, j2, k10, l2, m6, n2, o, p, q, r1, s, t, v, w, y
Junkyard	I1, I2	c1, e, h1, i4, k11, l5, m2, n3, r1, v, w, y
Kindergarten or Day Nursery	All	b3, c8, f3, h1, i3, j1, k12, p, r1, v, y
Mineral Extraction, Borrow Pit, Top Soil Removal and their Storage Area	R1, B2, I2	c9, e, h1, i8, j1, n3, r1, s, t, u3, v, w
Mobile Home Park	B2, I1, I2	b8, c6, d2, g, h1, j1, k13, l2, o, p, q, r1, s, u1, v, w, y
Outdoor Theater	R1, B1, B2, I1, I2	c6, i6, k11, p, r1, s, t, v, w, y
Outdoor Commercial Recreational Enterprise	All	c4, d1, g, h1, i1, j3, k14, l2, n1, p, r2, s, t, v, w, y

Mentone - Land Usage

	<i>DISTRICT(S) IN WHICH USE MAY BE PERMITTED</i>	<i>REQUIREMENT DESIGNATION (See chart in (B))</i>
Penal or Correctional Institution	I1, I2	b12, c10, e, g, k15, l5, n3, p, r1, y
Power Transmission Line	All	p
Practice Golf-Driving Range	R1, B1, B2, I1, I2	c6, i7, j3, k16, l2, r1, v, y
Private Recreational Development	All	c4, g, h1, j3, k2, l2, r1, v, w, y
Produce Terminal, Wholesale	B1, B2, I1, I2	b10, c7, d3, e, h1, i8, j1, k11, l4, m3, n2, p, r1, s, t, v, w, y
Public Camp	R1, B1, B2, I1, I2	b7, c6, d1, g, h1, j3, k17, l2, r1, ul, v, w, y
Public or Commercial Sanitary Fill or Refuse Dump	I1, I2	b7, c11, e, i9, j5, r1, ul, v, w
Public or Commercial Sewage or Garbage Disposal Plant	I1, I2	b11, c11, e, k19, r1, ul, v, w
Public or Employee Parking Areas	All except R1, B2	b2, p, r1, s, t, v, x, y, z
Public Park or Public Recreational Facility	All	c4, g, h1, j2, k21, l2, t, v, w
Radio or Television Tower	All	k19, p, r1, v
Railroad Right-of-Way and Uses Essential to Railroad Operation	All	h1, k20, r1, v
Raising and Breeding of Non-Farm Fowl and Animals, Commercially, except Kennel	B1, B2, I1, I2	b7, c10, h1, j1, k7, l2, m1, n2, r1, v, w, y
Riding Stable	R1, B1, B2, I2	b5, c10, h1, j1, k21, m1, r1, v, w, y
Seasonal Fishing or Hunting Lodge	All	b1, c1, f4, k22, v, w, y
Stadium or Coliseum	All	b7, c2, j1, k24, l2, m2, n1, p, r2, s, t, v, y
Tourist Home	All except R1, I2	b1, c1, f1, h1, k26, r1, v, y
Truck Freight Terminal	B1, B2, I1, I2	c1, e, j1, k25, l4, n2, p, r1, s, t, v, w, y

If the nature of the special exception involves more than one of those listed, the applicant may apply for an Improvement Location Permit for the special exception which most closely relates to the primary use; provided that the requirements of all the related uses will be met.

(B) Note: Use of # symbol in the appendix indicates that the requirements of the district apply to the Special Exception where located.

<i>Reqmt. Desig.</i>	<i>REQUIREMENT</i>		
a. CLASSIFICATION OF USE PERMITTED			
	1. Light Industrial 2. Local Business 3. Industrial		
b. MINIMUM LOT AREA			
	1. # 2. 1,500 square feet 3. 110 square feet per child 4. 25,000 square feet 5. 20,000 square feet plus 5,000 square feet per horse over four horses 6. One acre 7. Five acres 8. Five acres including 2,500 square feet per mobile home stand 9. Six acres 10. 20 acres 11. 40 acres 12. 80 acres 13. 320 acres 14. Two times requirement for single-family dwelling 15. Two acres		
c. MINIMUM YARDS (Feet)			
	Front	Side(each)	Rear
1. #		#	#
2. #		50	50
3. #		10	30
4. #		40	40
5. #		—	—
6. 100		40	40
7. 100		Abutting Residential = 75 Abutting Other Use = 35	
8. #		20	#
9. 150		150	150
10. 100		100	100
11. 300		300	300

<i>Reqmt. Desig.</i>	<i>REQUIREMENT</i>
d. BUILDING SETBACK FROM CENTER LINE OF INTERIOR ROAD (Feet)	<ol style="list-style-type: none"> 1. 40 2. 50 3. 85
e. USE PERMITTED NOT CLOSER THAN 300 FEET TO A RESIDENTIAL USE	
f. MINIMUM GROSS FLOOR AREA OF PRINCIPAL BUILDING(S) (Square Feet)	<ol style="list-style-type: none"> 1. # 2. Over 1,000 3. Determined by Number of Children to be Accommodated 4. 400 5. Two times single-family dwelling 6. 672
g. PLAN OF LANDSCAPE DEVELOPMENT TO BE SUBMITTED WITH APPLICATION	
h. MAXIMUM HEIGHT OF STRUCTURE (Feet)	<ol style="list-style-type: none"> 1. # 2. As required by appropriate state or federal agency 3. Same as light industrial 4. 45 5. 70 6. 25
i. FENCE	<ol style="list-style-type: none"> 1. 6-foot wire mesh where accessible to the public 2. 6-foot wire mesh when located at ground level 3. 4-foot wire mesh around play area 4. Solid wall or solid painted fence 8 feet 5. 4-foot wire mesh abutting residential use 6. Painted board fence 8 feet high 7. Adequate to protect abutting use 8. 6-foot wire mesh 9. 6-foot solid painted for refuse dump 10. 6-foot wire mesh abutting residential use

*Reqmt.
Desig.*

REQUIREMENT

j. SCREEN PLANTING WHERE ABUTTING RESIDENTIAL USE
(Tight screen, effective at all times)

1. 6-foot height by 6-foot width
2. 25 feet abutting residential district or use
3. 8-foot height by 6-foot width
4. Adequate to screen power substation from street view
5. 6 feet high along streets for refuse dump

k. PARKING SPACES

1. 1 per 2 employees plus 1 per 4 seats in waiting room
2. 1 per 2 customers or members
3. 1 per 2 employees plus 3 per doctor
4. 1 per 3 employees plus 1 per 6 students
5. 30
6. 1 per 3 employees per shift
7. 1 per 3 employees plus 1 per 125 square feet of sales area
8. 1 additional
9. 1 per 4 beds plus 1 per doctor plus 1 per 3 employees plus 1 per hospital vehicle
10. 1 per 2 employees on largest shift
11. 1 per 2 employees
12. 1 per 2 employees plus 1 per 5 children to be accommodated
13. 1 per 2 employees plus 1 per mobile home stand
14. 1 per 3 employees plus 1 per 500 square feet of use area
15. 1 per 3 employees plus 1 per 10 inmates at estimated capacity
16. 1 per 3 employees plus 1 per driving tee
17. 1 per camp site and 1 per cabin
18. Telephone Exchange — 1 per employee
19. 1 per employee per shift
20. 1 per 2 employees where headquartered
21. 1 per 5,000 square feet
22. One
23. 1 per 60 square feet of sales area
24. 3 per 4 employees plus 1 per 4 seats
25. 1 per 2 employees plus 4 for customers
26. 1 per employee plus 1 per sleeping accommodation
27. Two
28. 1 per employee plus 1 for each 6 seats in main auditorium







<i>Reqt. Desig.</i>	<i>REQUIREMENT</i>
	l. DISTANCE OF PARKING AREA FROM RESIDENTIAL USE (Feet) <ol style="list-style-type: none"> 10 25 50 100 300
	m. NUMBER OF LOADING AND UNLOADING BERTHS (Shall Not Face on Bordering Highway) <ol style="list-style-type: none"> 1 2 Per Development Plan 15,000 square feet — 1; Over 15,000 feet — 2 Up to 200 beds — 1 200 to 500 beds — 2 Over 500 beds — 3 Per Appendix C, § 2
	n. DISTANCE OF LOADING AND UNLOADING BERTH FROM RESIDENTIAL USE (Feet) <ol style="list-style-type: none"> 50 100 300
	o. PLAT APPROVED BY THE COMMISSION TO BE SUBMITTED WITH APPLICATION
	p. DEVELOPMENT PLAN TO BE SUBMITTED WITH APPLICATION
	q. COVENANT BY OWNERS TO PERPETUATE MAINTENANCE AND APPROVE FUTURE IMPROVEMENTS
	r. MAXIMUM NUMBER OF PRINCIPAL ENTRANCES FROM MAJOR THOROUGHFARE <ol style="list-style-type: none"> 1 2
	s. ACCEPTABLE RELATIONSHIP TO MAJOR THOROUGHFARE
	t. THOROUGHFARES MUST BE ADEQUATE TO CARRY ADDITIONAL TRAFFIC ENGENDERED BY USE

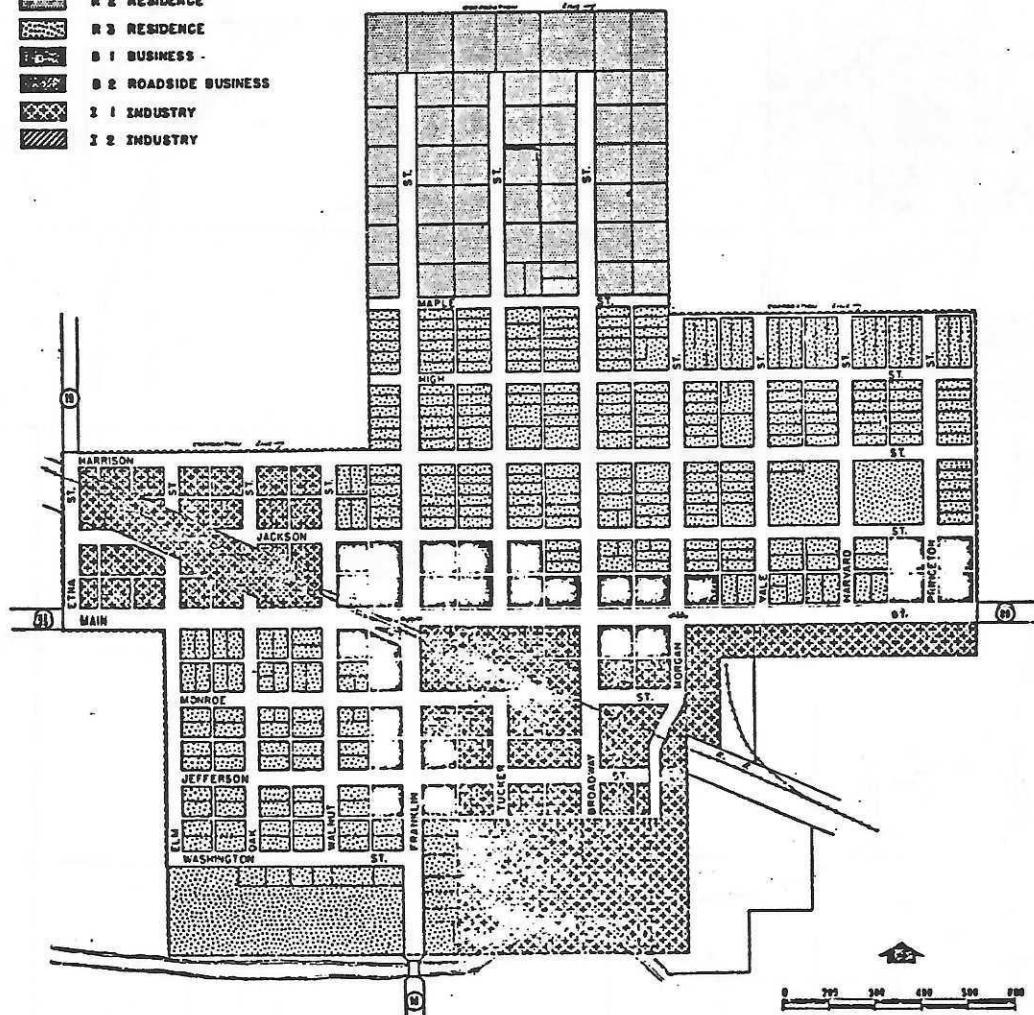
<i>Reqmt. Desig.</i>	<i>REQUIREMENT</i>
u.	OTHER AUTHORITY APPROVAL REQUIRED <ol style="list-style-type: none">1. State Board of Health2. Aeronautics Commission of Indiana3. Planning Act — Section 58½
v.	OUTDOOR ADVERTISING SIGNS AND OUTDOOR ARTIFICIAL LIGHTING SHALL BE APPROVED BY THE COMMISSION
w.	DISPOSAL OF LIQUID AND OTHER WASTES SHALL MEET THE APPROVAL OF THE STATE BOARD OF HEALTH
x.	NO SALES, DEAD STORAGE, REPAIR WORK OR DISMANTLING ON THE LOT
y.	NO PARKING IN THE FRONT YARD, EXCEPT AS PROVIDED IN § 151.36
z.	EXCEPT FOR APPROVED EXITS AND ENTRANCES, A MASONRY WALL FOUR FEET IN HEIGHT AND SIX INCHES THICK ERECTED AT REQUIRED FRONT LINE OF BUILDING AND MAY BE REQUIRED ALONG BOUNDARIES OF PARKING AREA AS DETERMINED BY THE COMMISSION FOR THE PROTECTION OF RESIDENTIALLY ZONED OR USED PROPERTY

APPENDIX F: ZONING MAPS

MENTONE INDIANA ZONE MAP 1961

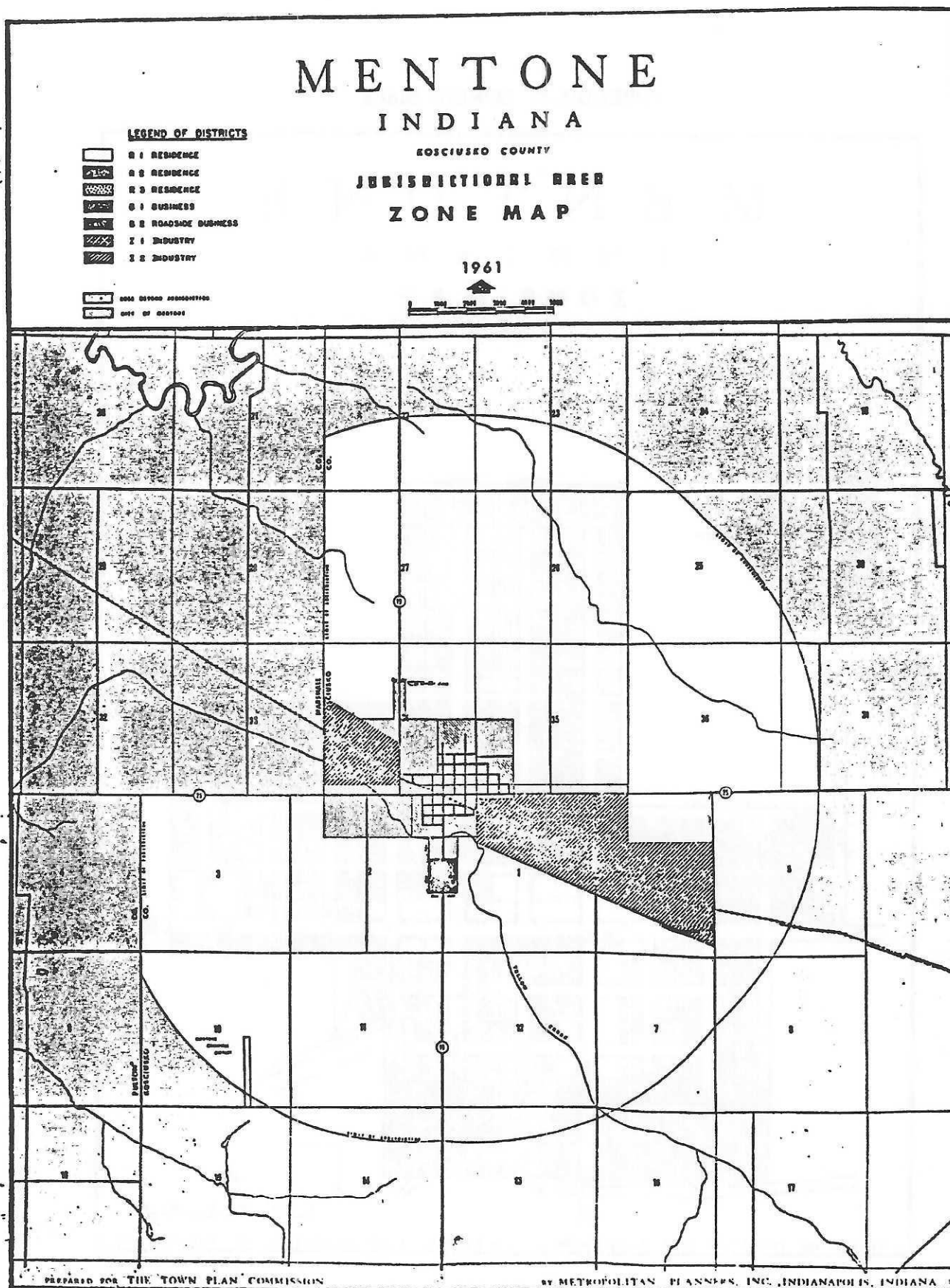
LEGEND OF DISTRICTS

-  R 1 RESIDENCE
-  R 2 RESIDENCE
-  R 3 RESIDENCE
-  B 1 BUSINESS
-  B 2 ROADSIDE BUSINESS
-  I 1 INDUSTRY
-  I 2 INDUSTRY



PREPARED FOR THE TOWN PLAN COMMISSION

BY: METROPOLITAN PLANNERS, INC. INDIANAPOLIS



CHAPTER 152: RESIDENTIAL RENTAL PROPERTY

Section

- 152.01 Authority
- 152.02 Definitions
- 152.03 Powers of Inspector
- 152.04 Rental property must be clean
- 152.05 Unsafe dwellings
- 152.06 Officer to issue order for unsafe premises
- 152.07 Information to be included in Officer's order
- 152.08 Officer allowed to modify order
- 152.09 Actions of person aggrieved by order
- 152.10 Bond to be filed for appeal
- 152.11 Violations

- 152.99 Penalty

§ 152.01 AUTHORITY.

This chapter governing residential rental property is promulgated pursuant to the authority vested in the Health Officer pursuant to IC 16-20-1.
(Ord. 304, passed 6-6-94)

§ 152.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Kosciusko County Health Board and/or its duly authorized representatives.

DWELLING. Any part of any dwelling or its premises used as a place of residence or habitation or for sleeping by any person.

HEALTH OFFICER. The health officer of Kosciusko County or his duly appointed representative.

KOSCIUSKO COUNTY. Any and all residential rental properties located in part or in whole within the boundaries of the county, including, but not limited to any and all property situated in cities, towns, incorporated, and unincorporated areas and including any and all areas within and under the jurisdiction of the Kosciusko County Health Department.

NUISANCE. Whatever may be injurious to health.

ORDER. Any written directive issued by the health officer in accordance with § 152.06.

OWNER. Any one or more of the following:

- (1) The owner or owners in fee simple of a parcel of real estate including the life tenant or tenants, if any.
- (2) The record owner or owners as reflected by the County Recorder's Office.
- (3) The purchaser or purchasers or such real estate under any contract for the conditional sale thereof.
- (4) The person or persons in control of the property as executor, executrix, trustee, receiver, or guardian of the owner.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, trust, estate, or any other legal entity, its or their successors or assigns or agents of the aforesaid.

PLUMBING. All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, and the installation thereof, together with all connections to water, gas or sewer lines.

PREMISES. A platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure, and includes any such dwelling, accessory structure, adjoining alley, easement or drainage way.

UNFIT FOR HUMAN HABITATION. A condition of a dwelling which is dangerous or detrimental to life or health because of want of repair, defects in drainage, plumbing, lighting, ventilation, or its construction, infection with contagious disease, or the existence on the premises of an insanitary condition likely to cause sickness among occupants of the dwelling.
(Ord. 304, passed 6-6-94)

§ 152.03 POWERS OF INSPECTOR.

The inspector of dwellings in the town may exercise all the powers granted him in the town ordinance dealing with housing and granted in this chapter to the Kosciusko County Board of Health.
(Ord. 304, passed 6-6-94)

§ 152.04 RENTAL PROPERTY MUST BE CLEAN.

No owner or other person shall occupy or let to another person any dwelling or dwelling unit unless it and the premises are clean, sanitary, and fit for human occupancy.
(Ord. 304, passed 6-6-94)

§ 182.06 UNSAFE DWELLINGS.

Any dwelling, or its premises, which has any or all of the conditions or defects hereinafter described shall be deemed to be an unsafe, dangerous dwelling, provided that such conditions or defects exist to the extent that the life, property, or safety of the public or its occupants are endangered:

(A) Any door, aisle, passageway, stairway, or other means of exit which is blocked or is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(B) The walking surface of any aisle, passageway, stairway, or other means of exit which is so warped, worn, decayed, loose, torn, or otherwise unsafe as not to provide safe and adequate means of exit in case of fire or panic;

(C) The stress in any materials, member, or portion thereof, due to all dead and live loads, which is more than $1\frac{1}{2}$ times the working stress or stresses allowed in the Indiana Building Code for any new dwellings of similar structure, purpose or location;

(D) Any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new dwellings of similar structure, purpose or location;

(E) Any portion of member or appurtenance thereof is likely to fail, or become detached or dislodged, or to collapse and thereby injure persons or damage property;

(F) Any portion of a dwelling, or any member, appurtenance, or ornamentation on the exterior thereof which is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of $\frac{1}{2}$ of that specified for new dwellings of similar structure, purpose, or location without exceeding the working stresses permitted in the Indiana Building Code for such structures;

(G) Any portion thereof has warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(H) The dwelling or structure, or any portion thereof, is likely to partially or completely collapse because of:

(1) Dilapidation, deterioration, or decay;

(2) Faulty construction;

(3) The removal or instability of any portion of the ground necessary for the purpose of supporting such dwelling;

(4) The deterioration, decay, or inadequacy of its foundation; or

(5) Any other cause.

(I) The dwelling or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(J) The exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside of the middle 1/3 of the base;

(K) The dwelling or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members, or 50% damage or deterioration of its non-supporting members, enclosing or outside walls or coverings;

(L) The dwelling or structure has been so damaged by fire, wind, or earthquake or flood, or has become so dilapidated as to become;

(1) An attractive nuisance to children;

(2) A harbor for vagrants, criminals, or any other illegal persons; or as to

(3) Enable persons to resort thereto for the purpose of committing unlawful, illegal, or unsafe acts;

(4) Incapable of maintaining a minimum temperature of 65° Fahrenheit.

(M) Any dwelling or structure which has been constructed, exists, or is maintained in violation of any specific requirements or prohibition applicable to such dwelling regulation of Kosciusko County, as specified in the Indiana Building Code, or of any law, rule, or ordinance of the State of Indiana or this country, relating to the condition, location, or structure of dwellings which violation constitutes a clear and present health risk to human inhabitants;

(N) Any dwelling or structure which, whether or not erected in accordance with applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50%, or in any supporting part, member, or portion less than 60% of the:

(1) Strength;

(2) Fire-resisting qualities or characteristics required by law in the case of newly constructed dwellings of like area, height, and occupancy in the same location.

(O) A dwelling or structure, used or intended to be used for dwelling purposes, which, because of inadequate maintenance, filth, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air, water supply, sewage disposal, or other sanitary facilities, or otherwise, is determined by the Health Officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease;

(P) Any dwelling or structure, which, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction, faulty electrical wiring or fixtures, gas connections, or heating apparatus, or other causes, is determined by the Fire Marshall to be a fire hazard;

(Q) Any dwelling or structure which is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

(R) Any portion of a dwelling or structure which remains on a site after the demolition or destruction of the dwelling or structure is abandoned for a period in excess of three months so as to constitute such dwellings or portion thereof as an attractive nuisance or hazard to the public;

(S) Any dwelling which is provided with a heating system that is not operable;

(T) Any dwelling which provides less than 40 square feet of sleeping room for each inhabitant;

(U) Any dwelling which is provided with an electrical distribution system which is not operable. A system is not operable if it presents a clear and present health risk to human occupants when operating;

(V) Any dwelling from which there is only one means of egress;

(W) Any dwelling for which there is not available safe and potable water of sufficient pressure that all outlets may operate Simultaneously;

(X) Any dwelling for which there is not safe potable running hot water not less than 110° fahrenheit;

(Y) Any dwelling for which a septic or sewage removal system is not operable;

(Z) Any dwelling within which a smoke detector system is not operable. A smoke detector system is deemed operable on condition of the following:

(1) At least one unit is installed;

(2) At least one smoke detector unit must be on the ceiling not less than six inches from any wall or on any wall located six to 12 inches from the ceiling and within 15 feet of all rooms used for sleeping purposes;

(3) if the rental unit consists of multiple levels, each unit shall have not less than one installed smoke detector on the uppermost ceiling of each level not less than six inches from any wall or on a wall located from six to 12 inches from the uppermost ceiling of all interior stairwells;

(4) All approved smoke detectors required in this chapter shall be the ionization or photoelectric type, either battery powered or 110 volt A.C. and shall comply with all of the requirements of the Underwriter's Laboratories, Inc. standard UL-217 (standard for safety - single and multiple station smoke detectors 1976). Smoke detectors shall bear the label of a nationally recognized standards testing laboratory that indicates that the smoke detectors have been tested and listed under the requirements of UL-217 (1976).

(5) These provisions shall not be required in buildings which contain an approved automatic sprinkler system throughout;

(6) It shall be the responsibility, at every change of tenant in every single or multiple dwelling, for the owner, manager, or agent to test and ascertain that the approved smoke detectors are in operating condition;

(7) No person shall, except in cases of fire or for the purpose of repair and maintenance, remove or tamper with fire extinguishers, fire escapes, fire hoses, nozzles, or other fire control or fire extinguishing equipment or fire reporting equipment, including smoke detectors in or about any of the building or other premises.

(Ord. 304, passed 6-6-94)

§ 152.06 OFFICER TO ISSUE ORDER FOR UNSAFE PREMISES.

(A) The health officer may issue an order relative to any unsafe premises to require action, including but not limited to the following:

(1) Vacating of an unsafe dwelling;

(2) Sealing and/or fencing (fencing is defined as a wood or metal barrier sufficient to block human entrance) an unsafe dwelling against intrusions by unauthorized persons by boarding over each basement and ground floor level door, window, or other opening;

(3) Extermination of vermin in and about the unsafe premises;

(4) Repair of an unsafe dwelling to bring it into compliance with standards for dwelling condition or maintenance found in ordinances and rules enacted by the County of Kosciusko and the State of Indiana;

(5) Removal of a portion of an unsafe dwelling;

(6) Removal of an unsafe dwelling including unattached adjacent structures;

(7) Removal of all refuse including all garbage, trash, excreta, etc. including disinfection and purification.

(B) The ordered action shall be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order shall take precedence over any municipally issued permit relating to dwelling or land use which is obtained, either before or after the order is issued.

(C) The force of an order shall expire three years from the day the notice of the order is given unless one or more of the following events occur within such three year period:

(1) A complaint requesting judicial review is filed in accordance with § 152.09;

(2) Work is let out at public bid to a contractor to perform action required by an order in accordance with this section;

(3) A civil action is filed in the Kosciusko County Circuit Court, or Superior Court, in accordance with § 152.10.

(Ord. 304, passed 6-6-94)

§ 182.07 INFORMATION TO BE INCLUDED IN OFFICER'S ORDER.

(A) Any order shall contain the following information:

- (1) The name of the person to whom the order is issued;
- (2) The legal description or address or the unsafe premises that is the subject of the order;

(3) Definition. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RENTAL PROPERTY. Any dwelling or its premises, including unattached buildings, used as a place of residence or habitation to which an owner permits another individual or individuals to there reside for which the owner receives consideration.

- (4) A statement of the conditions which make the premises unsafe;
- (5) The action which the order requires to be accomplished;
- (6) The period of time in which the action is required to be accomplished, measured, from the time when the notice of the Order is given;
- (7) A statement indicating the exact time and place of the hearing regarding the order and indicating that the person to whom the Order was issued has a right to appear at the Hearing with or without legal counsel and present evidence, cross-examine opposing witnesses, and make argument;
- (8) A statement briefly indicating what action can be taken by the Board if the order is not complied with;
- (9) A statement indicating the obligation of the owner to notify any subsequent interest holders of the existence of this order and to notify the Board of the owner's intention to transfer the interest to a subsequent interest holder. The owner shall be required to deliver said notices, which notices shall be provided in writing by the owner, to said subsequent interest holders and the Board.

(B) The order shall allow sufficient time in which to accomplish the required action. In no case shall less than five calendar days from the day when the notice of the order is given be allowed for compliance with the order. In the instance where more than 60 calendar days are allowed by the order to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within a period of 15 calendar days.

(Ord. 304, passed 6-6-94)

§ 182.08 OFFICER ALLOWED TO MODIFY ORDER.

The Health Officer may at any time modify or rescind an order. All persons who have been issued an order shall be notified of its modification or rescission by means of a written statement which should include the following information:

- (A) The name of the person to whom the statement of modification or rescission of order is issued;

(B) The legal description or address of the unsafe premises that are the subject of the order being modified or rescinded;

(C) The substance of the order being modified or rescinded;

(D) A statement that the order is being modified or rescinded;

(E) The name, address and telephone number of the Board.
(Ord. 304, passed 6-6-94)

§ 152.09 ACTIONS OF PERSON AGGRIEVED BY ORDER.

(A) Any person aggrieved by any order of the Health Officer made under the provisions of this chapter, may, within ten days after the making of the order, file with the Board a petition praying the review of the order.

(B) Any person aggrieved by a review of the order made by the Board under the provisions of this chapter, may, within ten days after the review of the order, file with the Circuit or Superior Court a petition praying the judicial review of the order.
(Ord. 304, passed 6-6-94)

§ 152.10 BOND TO BE FILED FOR APPEAL.

The person appealing to the Circuit or Superior Court shall file with the Court a bond in an amount to be fixed by the Court with sureties to be approved by the Judge and conditioned to pay all the costs on the appeal in case the person fails to sustain his appeal or in case the appeal is dismissed.
(Ord. 304, passed 6-6-94)

§ 152.11 VIOLATIONS.

Any person violating any provision of this chapter or failing to comply with any order of the Board or Health Officer shall be liable for all costs and expenses paid or incurred by the Health Board Officer in the execution of this order, including, but not limited to reasonable attorney fees and court costs.
(Ord. 304, passed 6-6-94)

§ 152.99 PENALTY.

Any person shall be liable for a fine between \$10 and \$100 per day for each day a violation occurs. Each day shall be considered a separate violation. All monies obtained pursuant to this section shall be placed in the current operating budget of the Kosciusko County Health Department.
(Ord. 304, passed 6-6-94)

CHAPTER 153: BUILDING CODE

Section

General Requirements

- 153.01 Title
- 153.02 Purpose
- 153.03 Definitions
- 153.04 Scope
- 153.05 Authority
- 153.06 Severability
- 153.07 Effect of adoption on prior ordinance
- 153.08 Effective date

Building Permits

- 153.10 Building permit required
- 153.11 Application for building permit
- 153.12 Issuance of building permit
- 153.13 Certificate of occupancy
- 153.14 Fee schedule

Investigations and Inspections of Construction Activities

- 153.20 General authority to make inspections and investigations
- 153.21 Inspections by Fire Department

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- 153.25 Withhold issuance of permits
- 153.26 Permit revocation
- 153.27 Stop-work order
- 153.28 Civil action
- 153.29 Monetary penalty
- 153.30 Right of appeal

Minimum Construction Standards

- 153.35 Adoption of rules by reference
- 153.36 Lifting devices located within a private residence

Indiana Unsafe Building Law

- 153.40 Adoption

Demolition of Building Structures

- 153.55 General
- 153.56 Execution

GENERAL REQUIREMENTS**§ 153.01 TITLE.**

This chapter and all material included herein by reference shall be known as the Building Code of Mentone, Indiana.
(Ord. 376-06, passed 4-3-06)

§ 153.02 PURPOSE.

The purpose of this chapter, is to protect the life, public safety, health and general welfare of the citizens of Mentone, Indiana, and shall be constructed in such a manner to effectuate this purpose.
(Ord. 376-06, passed 4-3-06)

§ 153.03 DEFINITIONS.

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUILDING COMMISSIONER. As used in this chapter, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

CLASS 1 STRUCTURE. Pursuant to IC 22-12-1-4:

(1) Means any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

1. The public.
2. Three or more tenants.
3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by person with physical disabilities to a building or structure described in division (a) above.

(c) Outdoor event equipment.

(d) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in division (a) above, except building or structure described in divisions (2) through (6) below.

(2) Division (1)(a) above includes a structure that contains three or more condominium units (as defined in IC 32-25-2-9) or other units that:

- (a) Are intended to be or are used or leased by the owner of the unit; and
- (b) Are not completely separated from each other by an unimproved space.

- (3) Division (1)(a) does not include a building or structure that:
 - (a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and
 - (b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.
- (4) Division (1)(a) does not include a Class 2 structure.
- (5) Division (1)(a) does not include a vehicular bridge.
- (6) Division (1)(a) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:
 - (a) The structure; or
 - (b) Mechanical or electrical equipment located within and affixed to the structure.
- (7) Pursuant to IC 22-12-1-24, structure includes swimming pool.

CLASS 2 STRUCTURE. Pursuant to IC 22-12-1-15:

- (1) Means any part of the following:
 - (a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.
 - (b) An outbuilding for a structure described in division (1), such as a garage, barn, or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.
- (2) Division (1) does not include a vehicular bridge.
- (3) Pursuant to IC 22-12-1-24, structure includes swimming pool.

CONSTRUCTION. Pursuant to IC 22-12-1-7, means any of the following:

- (1) Fabrication of any part of an industrialized building system or mobile structure for use at another site.
- (2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used.
- (3) Installation of any part of the permanent heating, ventilating, or air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used.
- (4) Work undertaken to alter remodel rehabilitate or add to any part of a Class 1 or Class 2 structure.

(5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

INDUSTRIALIZED BUILDING SYSTEM. Pursuant to IC 22-12-1-14 means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure, or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

MANUFACTURED HOME. Pursuant to IC 22-12-1-16, has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, 2003. This definition is as follows: **MANUFACTURED HOME** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. 5401 et seq. and except that such term shall not include any self-propelled recreational vehicle.

MOBILE STRUCTURE. Pursuant to IC 22-12-1-17:

(1) Means any part of a fabricated unit that is designed to be:

(a) Towed on its own chassis; and

(b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure, or another structure.

(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity.

(b) Two or more units that are separately towable but designed to be joined into one integral unit.

PERSON. Pursuant to IC 22-12-1-18, means an individual, corporation, limited liability company, partnership, unincorporated association, or governmental entity.

STRUCTURE. Both Class 1 and Class 2 structures, unless specifically stated otherwise.

VEHICULAR BRIDGE. Pursuant to IC 22-12-1-26, means any bridge suspended between two or more parts of a building or between two or more buildings that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles;
(Ord. 376-06, passed 4-3-06)

§ 153.04 SCOPE.

(A) All construction shall be accomplished in compliance with the provisions of the Building Code.

(B) Pursuant to IC 22-13-2-6, this Building Code shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this Building Code and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified and IC 22-15-4.

(C) Pursuant to IC 22-13-2-9, this Building Code is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices.
(Ord. 376-06, passed 4-3-06)

§ 153.05 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce the following:

(A) All of the provisions of this Building Code.

(B) Variances granted in accordance with IC 22-13-2-11.

(C) Orders issued under IC 22-12-7.
(Ord. 376-06, passed 4-3-06)

§ 153.06 SEVERABILITY.

Should any provision (section, clause, phrase, word, or any other portion) of this chapter be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this ordinance. To this end, the provisions of this chapter are severable.

(Ord. 376-06, passed 4-3-06)

§ 153.07 EFFECT OF ADOPTION ON PRIOR ORDINANCE.

The expressed or implied repeal of amendment by this chapter of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this chapter. These rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this chapter had not been adopted.

(Ord. 376-06, passed 4-3-06)

§ 153.08 EFFECTIVE DATE.

The Building Code shall be in full force and effect from and after the date on which both of the following have occurred:

(A) The Town Council has adopted this chapter.

(B) The Fire Prevention and Building Safety Commission of Indiana has approved of this chapter as required by IC 22-13-2-5.
(Ord. 376-06, passed 4-3-06)

BUILDING PERMITS**§ 153.10 BUILDING PERMIT REQUIRED.**

Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of construction.
(Ord. 376-06, passed 4-3-06)

§ 153.11 APPLICATION FOR BUILDING PERMIT.

(A) Any person required to have a building permit shall submit a complete application to the Building Commissioner.

(B) This application shall be submitted on a form prepared by the Building Commissioner, and shall contain the following:

(1) Information that the Building Commissioner determines to be necessary to locate and contact the applicant.

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished.

(3) A plot plan drawn to scale; provided, however, such plot plan shall not be required in the instance where all such construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.

(4) If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Design Release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshall pursuant to IC 22-15-3.

(5) Any additional information that the Building Commissioner finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(C) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner may require that such an employee or agent provide written authority to apply for a permit.

(D) The Town Council shall maintain an official fee schedule for permits and processes outlined in this chapter. Penalties, collection procedures for permits and penalties, appeals process, and other petition processes pertaining to this chapter are considered a part of the chapter. The fee schedule shall be available to the public in the Office of the Clerk-Treasurer and the Building Commissioner. The fee schedule may be amended by a recommendation submitted to the Town Council by the Building Commission, or by the Town Council on its own initiative, followed by the Town Council approving the amendments by resolution.
(Ord. 376-06, passed 4-3-06)

§ 153.12 ISSUANCE OF BUILDING PERMIT.

The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.
(Ord. 376-06, passed 4-3-06)

§ 153.13 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure shall be issued unless such building or structure was constructed in compliance with the provisions of this Building Code. It shall be unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner,
(Ord. 376-06, passed 4-3-06)

§ 153.14 FEE SCHEDULE.

The following fee schedule pertains to an improvement location permit or a building permit.

STRUCTURE TYPE	FEE
Double Wide	\$100
Modular	\$100
Conventional	\$100
Home Addition	\$50
Accessory Buildings	\$50
Commercial Buildings	\$200
Fence	\$25
Swimming Pool (above and below ground)	\$25
Duplex	\$100
Destruction of Building	\$100

(Res. 378-06, passed 4-3-06)

INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES**§ 153.20 GENERAL AUTHORITY TO MAKE INSPECTIONS AND INVESTIGATIONS.**

(A) All construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.

(B) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any structure subject to the provisions of the Building Code or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with the Building Code and the rules of the Fire Prevention and Building Safety Commission.
(Ord. 376-06, passed 4-3-06)

§ 153.21 INSPECTIONS BY FIRE DEPARTMENT.

The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws. (The Fire Department has independent authority to conduct inspections and take enforcement actions under IC 36-8-17.)
(Ord. 376-06, passed 4-3-06)

ENFORCEMENT AND PENALTIES**§ 153.25 WITHHOLD ISSUANCE OF PERMITS.**

(A) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including check returned for insufficient funds, permit fees owed pursuant to this Building Code, or inspection fees owed pursuant to this Building Code) to the Building Commissioner, the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.

(B) Whenever a person applies for a building permit for a structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permits until such time that the property is brought into conformance with applicable ordinances.
(Ord. 376-06, passed 4-3-06)

§ 153.26 PERMIT REVOCATION.

The Building Commissioner may revoke a building permit when any of the following are applicable:

(A) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.

(B) The application, plans or supporting documents reflect a lack of compliance with building standards and procedures.

(C) There is failure to comply with the Building Code.

(D) The structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use.

(Ord. 376-06, passed 4-3-06)

§ 153.27 STOP-WORK ORDER.

(A) The Building Commissioner may issue an order requiring suspension of the pertinent construction (stop-work order) in accordance with this section.

(B) The stop work order shall:

(1) Be in writing;

(2) State with specificity the construction to which it is applicable and the reason for its issuance;

(3) Be posted on the property in a conspicuous place;

(4) If practicable, be given to:

(a) The person doing the construction; and

(b) To the owner of the property or the owner's agent.

(5) The stop-work order shall state the conditions under which construction maybe resumed.

(C) The Building Commissioner may issue a stop-work order if:

(1) Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Building Code or an state law pertaining to safety during construction.

(2) Construction is occurring in violation of the Building Code or in such a manner that if construction is allowed to proceed, there is a reasonable probability that it will substantially difficult to correct the violation.

(3) Construction for which a building permit is required is proceeding without a building permit being in force.

(D) The issuance of a stop-work order shall in no way limit the operation of penalties provided elsewhere in the Building Code.
(Ord. 376-06, passed 4-3-06)

§ 153.28 CIVIL ACTION.

Pursuant to IC 36-1-6-4, the town may initiate a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Building Code.
(Ord. 376-06, passed 4-3-06)

§ 153.29 MONETARY PENALTY.

Any person violating any provision of this Building Code may be subject to a fine in any sum not exceeding \$2,500. The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in the Building Code.
(Ord. 376-06, passed 4-3-06)

§ 153.30 RIGHT OF APPEAL.

Any person aggrieved by an order issued under this Building Code shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

(A) Appeal to the Town Council.

(1) A person aggrieved by an order issued under this Building Code may appeal to the Town Council in accordance with IC 36-1-6-9.

(2) The Town Council may modify or reverse any order issued under this Building Code in accordance with IC 36-1-6.

(3) The review of an order by the Town Council does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(B) Appeal to the Fire Prevention and Building Safety Commission.

(1) A person aggrieved by an order issued under this Building Code may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the town that covers a subject governed by IC 22-12, 22-13, 22-14, 22-15, a fire safety, or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 structure if the person aggrieved by the order petitions for review under IC 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this Building Code.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.
(Ord. 376-06, passed 4-3-06)

MINIMUM CONSTRUCTION STANDARDS

§ 153.35 ADOPTION OF RULES BY REFERENCE.

(A) Pursuant to IC 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.

- (1) Article 13 – Building Codes.
 - (a) Fire and Building Safety Standards.
 - (b) Indiana Building Code.
- (2) Article 14 – Indiana Residential Code.
- (3) Article 16 – Indiana Plumbing Code.
- (4) Article 17 - Indiana Electrical Code.
- (5) Article 18 – Indiana Mechanical Code.
- (6) Article 19 – Indiana Energy Conservation Code.
- (7) Article 20 – Indiana Swimming Pool Code.
- (8) Article 22 - Indiana Fire Code
- (9) Article 24 – Migrant Day Care Nursery Fire Safety Code.
- (10) Article 25 – Indiana Fuel Gas Code.

(B) Two copies of the above building rules incorporated by reference are on file in the Office of the Clerk-Treasurer of the town for public inspection as required by IC 36-1-5-4.

(C) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Code. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by the Fire Prevention and Building Safety Commission.
(Ord. 376-06, passed 4-3-06)

§ 153.36 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

(A) Pursuant to IC 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference.

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A1 8.1A, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

(4) Section 6, Private Residence Vertical Platform Lifts, ASME A1 8.1A, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, Published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the Office of the Clerk-Treasurer for public inspection as required by IC 36-1-54. (Ord. 376-06, passed 4-3-06)

INDIANA UNSAFE BUILDING LAW**§ 153.40 ADOPTION.**

(A) Pursuant to the authority granted by IC 36-7-9-3, the Indiana Unsafe Building Law codified at IC 36-7-9 as the same now exists and as the same is hereinafter amended from time to time, is now hereby adopted in its entirety.

(B) There is hereby established an executive department of the town, to be known as the Office of Building Commissioner, the administrator of which shall be the Building Commissioner of the Town of Mentone, and all ordinances of the town now existing or are hereinafter existing which refer to the Building Commissioner, shall mean the person appointed as Building Commissioner who shall be responsible for the operation of the Office of the Building Commissioner. The Office of the Building Commissioner is the executive department hereby designated as the department of the town responsible for the administration of I.C. 36-7-9 adopted by this section.

(C) The Mentone Housing Authority is hereby designated as the hearing authority, to perform the duties of the hearing authority as required by IC 36-7-9.

(D) The definition of ***SUBSTANTIAL PROPERTY INTEREST*** as set forth in IC 36-7-9-2 as said definition now exists and as the same may hereinafter be amended from time to time, is hereby incorporated herein by reference.

(E) It is hereby established within the Office of the Building Commissioner, as part of its operation budget, a fund designated as the Unsafe Building Fund, the funds of which are to be received, administered and disbursed as provided by IC 36-7-9, including but not limited to IC 36-7-9-14.

(Ord. 377-06, passed 7-10-06)

DEMOLITION OF BUILDING STRUCTURES

§ 153.55 GENERAL.

(A) *Section includes.*

- (1) Demolition of building structures;
- (2) Site backfill, grading, and clean-up;
- (3) Protection of public and private utilities;
- (4) Soil surface restoration; and
- (5) Erosion control measures.

(B) *Description of work.* Unless directed otherwise in the Contract Documents, the contractor shall:

- (1) Remove and properly dispose of all structures, trash, rubbish, foundation walls, floors, foundations, pavement, sidewalks, steps, and driveways from the specified parcel;
- (2) Remove any fuel tanks, cisterns, meter pits, and plug or abandon wells;
- (3) Remove the materials from the demolition site in accordance with federal, state, and local regulations;
- (4) Remove and dispose of appliances and other items that may contain refrigerants in accordance with applicable federal and state regulations. Appliances and other items that may contain refrigerants include, but are not limited to, refrigerators, freezers, dehumidifiers, and portable or central air conditioners;
- (5) Remove and legally dispose of mercury-containing materials including fluorescent, high-pressure sodium, mercury vapor, metal halide light bulbs, and thermostats containing a liquid filled capsule;

(6) Disconnect all utility services before demolition;

(7) Perform site clearance, grading, and restoration; and

(8) Complete the demolition work in accordance with these technical specifications and any special provisions included in the Contract Documents.

(C) *Protection of the public and properties.*

(1) *Littering streets.*

(a) The contractor shall be responsible for removing any demolition debris or mud from any street, alley, or right-of-way resulting from the execution of the demolition work. Any cost incurred by the town in cleaning up any litter or mud shall be charged to the contractor and be deducted from funds due for the work.

(b) Littering of the site shall not be permitted.

(c) All waste materials shall be promptly removed from the site.

(2) *Street closure.*

(a) It shall be the contractor's responsibility to acquire the necessary permits and to place adequate barricades and warning signs as required by the town. See special provisions for additional information.

(b) Street or lane closures shall be coordinated with the town Street Department.

(3) *Protection of the public by the contractor.*

(a) *Sidewalks.* The contractor shall be responsible for any damage to public sidewalks abutting or adjacent to the demolition properties resulting from the execution of the demolition work. Photographs of the existing sidewalk conditions shall be taken immediately prior to the commencement of demolition operations. There are some sidewalks and partial sidewalks to be removed as a part of this contract (see special provisions). The cost of repair or replacement shall be considered incidental to the work and the contractor shall obtain all permits and pay any fees.

(b) *Pedestrian access.* It shall be the contractor's responsibility to place and construct the necessary warning signs, barricades, fencing, and temporary pedestrian sidewalks, as directed by the architect; and to maintain pedestrian access for sidewalks around the demolition site. The cost of these items shall be considered incidental to the work.

(4) *Demolition hours.*

(a) The contractor shall comply with any restrictions to working hours as included in the Supplementary General Conditions of the Contract Documents.

(b) The contractor shall comply with all applicable ordinances and restrictions of the town.

(5) *Noise pollution.* All construction equipment used in conjunction with this project shall be in good repair and adequately muffled.

(6) *Requirements for the reduction of fire hazards.*

(a) *Removal of material.* Before demolition of any part of any building, the contractor shall remove all volatile or flammable materials, such as gasoline, kerosene, benzene, cleaning fluids, paints or thinners in containers, and similar substances.

(b) *Fire extinguishing equipment.* The contractor shall maintain the correct type and class of fire extinguisher on-site.

(c) *Fires.* No fires of any kind will be permitted in the demolition work area.

(d) *Hydrants.* No material obstructions or debris shall be placed or allowed to accumulate within 15 feet of any fire hydrant. All fire hydrants shall be accessible at all times.

(e) *Debris.* Debris shall not be allowed to accumulate on roofs, floors, or in areas outside of and around any structure being demolished. Excess debris and materials shall be removed from the site as the work progresses.

(f) *Telephone service.* The contractor shall have cellular phone service in the vicinity of the work site for the purposes of making calls in case of fire or other emergencies, and shall keep all personnel on the job, informed of the location of such telephones. The contractor's foreman, or at least one regular member of each shift, shall be charged with the responsibility of promptly calling emergency services when necessary.

(7) *Protection of public utilities.* The contractor shall not damage existing fire hydrants, street lights, traffic signals, power poles, telephone poles, fire alarm boxes, wire cables, pole guys, underground utilities, or other appurtenances in the vicinity of the demolition sites. The contractor shall contact Holy-Moley a minimum of 48 hours prior to demolition activity to allow utilities to be marked on-site. The contractor shall schedule NIPSCO (gas and electric), Embark (phone), and Comcast (cable) and give notice to allow these utilities time to remove their service lines.

(8) *Protection of adjacent property.* The contractor shall not damage or cause to be damaged any public rights-of-way, structures, parking lots, drives, streets, sidewalks, utilities, lawns, or any other property adjacent to parcels released for demolition whether or not the property is scheduled for future demolition. Care must also be taken to prevent the spread of dust and flying particles.

(D) *Risk of loss.* The contractor shall accept the site in its present condition and shall inspect the site for its character and the type of structures to be demolished. The town assumes no responsibility for the condition of existing buildings, structures, and other property within the demolition area, or the condition of the property before or after the solicitation for proposals. No adjustment of proposal price or allowance will be allowed for any change in condition that occur after the acceptance of the lowest responsible, responsive proposal.

(E) *Property ownership.*

(1) *Title.* The property address for each structure to be demolished will be included in the Contract Documents. Upon execution of the contract for the work of demolition and site clearance on all or any part of the demolition area, all rights, title, and interest of town in and to buildings, structures, and other property to be demolished and/or removed by the contractor on part or all of

the project area as described in the Contract Documents and contract addenda, shall be deemed to be vested in the contractor. The contractor may obtain legal description of the property from the Town Attorney, if desired.

(2) *Land.* No property rights, title, or interest of any kind whatsoever, in or to the land or premises upon which such buildings or structures stand, is created, assigned, conveyed, granted, or transferred to the contractor, or any other person or persons, except only the license and right of entry to remove such buildings and structures in strict accordance with the Contract Documents. The contractor shall not use the land or premises, or allow any other party to use the land or premises, for any purpose other than activities in direct support of the demolition of the building.

(F) *Vacating of buildings.* The structures identified in the Contract Documents shall be vacated before a notice to proceed is issued and the contractor begins work. In case the contractor finds that any structure is not vacated, the contractor shall immediately notify the Building Commissioner and shall not begin demolition or site clearance operations on such property until further directed by the Building Commissioner. The contractor's responsibility for such buildings will not begin until the Building Commissioner issues a notice to proceed the demolition order.

(G) *Release of buildings.* The demolition area shall be released to the contractor upon award of contract and notice to proceed. The contractor shall have full control of the demolition progress and clearance of the site, subject to the provisions of the Contract Documents.

(H) *Permits and fees.* The contractor shall obtain all the necessary permits and pay all permit fees that are required by the town in conjunction with the demolition work.

(I) *Measurement and payment.*

(1) *Incidental cost.* The contractor shall provide and pay for all materials, labor, tools, equipment, transportation, temporary construction, charges, levies, fees, permits, and other expenses necessary to complete this work in accordance with the plans and specifications.

(2) *Lump sum payment.* The contractor will be paid a lump sum price when demolition is satisfactorily completed and when an application for payment has been prepared in accordance with these specifications and State of Indiana requirements. Applications for payment must be received by the Clerk-Treasurer's office by noon local time, not less the seven days prior to a regularly scheduled Town Council meeting.

(a) *Demolition work.* The contractor shall be paid a lump sum price for demolition of each building as indicated in the proposal and as approved by the town, and this payment will be full compensation for removal of buildings, building materials, contents of buildings, appliances, trash, rubbish, foundation walls, foundations, pavements, steps, and driveways from the site; disconnection of utilities; furnishing and compaction of backfill material; finish grading of disturbed areas; and seeding of lawn.

(b) *Acceptance of payment.* Acceptance of payment of each building shall also be defined as acceptance of the work at each site as complete in accordance with the Contract Documents.

(Ord. 09-408, passed 8-3-09) Penalty, see § 10.99

§ 153.56 EXECUTION.

(A) *Demolition schedule.* The contractor shall be responsible for providing the town Water Department and the Building Commissioner with a minimum of 48 hours (not including Saturday and Sunday) advance notification prior to beginning the execution of demolition of any structure.

(B) *Salvage of demolition materials.* The contractor shall be allowed to salvage demolition materials.

(C) *Demolition and removals.*

(1) *Structural parts of buildings.*

(a) No wall or part thereof shall be permitted to fall outwardly from any building except through chutes or by other controlled means or methods, which will ensure safety and minimize dust, noise, and other nuisances.

(b) Subject to site restrictions, outside chimneys, or outside portions of chimneys shall be raised in advance of general demolition of each building. Any portion of a chimney inside a building shall be raised as soon as it becomes unsupported by reason of removal of other parts of the building.

(c) Any part of a building, whether structural, collateral, or accessory, which has become unstable through removal of other parts, shall be removed as soon as practicable and no such unstable part shall be left free-standing or inadequately braced against all reasonably possible causes of collapse at the end of any day's work.

(2) *Foundation walls and footings.* All footings and foundations shall be completely removed from the site unless specifically stated otherwise. The foundation area is to be inspected and approved by the architect before backfilling is started. The contractor shall contact the Building Commissioner when removal is complete to schedule this inspection. Failure to do so may result in re-excavation of the basement area at the contractor's expense.

(3) *Concrete slabs.* The contractor shall remove all concrete slabs, asphalt, surface obstructions, masonry slabs, and appurtenances.

(4) *Fences.* Fences, guardrails, bumpers, signs, clotheslines, and similar facilities shall be completely removed from the site, except fences on the apparent boundary between a contract parcel and an improved non-contract parcel shall not be removed unless specifically stated (see special provisions). All posts for support shall be pulled out or dug up so as to be entirely removed.

(5) *Partially buried objects.* All piping, posts, reinforcing bars, anchor bolts, railings, and all other partly buried objects protruding from the ground shall be removed. The remaining void shall be filled with soil and compacted in accordance with these specifications.

(6) *Vegetation.* The contractor shall remove all dead trees, trees identified for removal, stumps, bushes, vegetation, brush and weeds, whether standing or fallen, unless specifically stated otherwise. The contractor shall protect all trees not removed from damage by the demolition operation. In the event that the contractor damages a tree, it shall be repaired or removed by the contractor as directed by the Building Commissioner.

(7) *Fuel tanks.* Fuel tanks, above or below ground, shall be carefully removed and disposed of in a safe manner in accordance with the federal and state regulations.

(a) The town is not aware of any below grade "buried" fuel tanks. Bidders shall visit each site to satisfy themselves whether an above grade tank exists outdoors, indoors, or in a crawl space.

(b) If a buried fuel tank is encountered, notify the Building Commissioner immediately. Do not proceed with removal without authorization.

(8) *Cisterns and meter pits.* Cisterns and meter pits shall be demolished and removed. The excavations shall be backfilled and compacted in accordance with these specifications.

(D) *Disposal of demolition debris and solid waste.*

(1) *Debris.* All materials, rubbish, and trash shall be removed from the demolition area leaving the basements and demolition areas free of debris. Any cost incurred by the town in cleaning up such materials and debris left behind shall be deducted from funds due the contractor under the contract.

(2) *Tires.* The contractor shall visit the site to determine the number of tires that have been abandoned on-site. If any recently deposited additional tires are found on-site prior to commencing demolition activity, the contractor shall immediately notify the architect of the quantity of additional tires found on-site.

(3) *Disposal of demolition debris and solid waste.* All debris and solid waste shall be delivered by the contractor to a disposal site, or to an approved disposal facility licensed in accordance with state and/or local regulations, laws, and zoning. The contractor shall be responsible to pay all fees for waste disposal. The contractor shall submit to the Building Commissioner copies of all disposal tickets for each structure demolished, where available, which identify the specific address of the origin of the debris associated with each ticket. The cost of all disposal fees shall be considered incidental to the demolition.

(4) *Asbestos abatement.* The handling of asbestos material is subject to all applicable federal and state mandates. The contractor shall comply with applicable regulations regarding its handling and disposal.

(5) *Freon removal and disposal.* The handling of freon containing appliances is subject to all applicable federal and state mandates and regulations. The contractor shall be responsible for the identification, removal, and disposal of the material in accordance with applicable regulations. All costs associated with the removal and disposal shall be considered incidental and shall be included in the lump sum bid for demolition.

(6) *PCB and mercury removal and disposal.* The handling of any fluorescent lighting fixtures and ballasts containing PCB or mercury is subject to all applicable federal and state mandates and regulations. The contractor shall be responsible for the removal and disposal of the material in accordance with applicable regulations. All costs associated with the removal and disposal shall be considered incidental and shall be included in the lump sum bid for demolition.

(E) *Backfill, grading, and clean-up.*

(1) *Backfill.* On-site soil shall not be used as backfill material. Adequate fill is not available on-site, the contractor shall bring in enough fill from off-site to bring fill grade to an elevation equal to existing pavement/sidewalk elevation remaining around perimeter of site and cover all areas on-site where pavement or buildings are demolished. Fill material must be approved by the Building Commissioner prior to placement. Excess excavation materials shall be removed from the site. All borrow or fill material shall consist of sand backfill and be approved by the Building Commissioner before and during the placing of the material. All depressions on the property shall be filled, compacted, and graded to a uniform elevation with proper drainage.

(2) *Compaction.* All excavations shall be backfilled with acceptable material and compacted in lifts of no more than 12 inches.

(a) *Demolition compaction.* All excavations associated with the demolition shall be backfilled and compacted to 95% modified proctor.

(b) *Testing.* After completion of fill material, each building area shall be tested for density in four locations by a soils engineering company to insure compliance with specifications. The contractor shall notify the architect 24 hours in advance of placing any backfill material.

(c) *Additional fill material.* All fill material shall be imported to the site. There shall be no payment for additional fill material, which shall be considered incidental to the demolition bid price.

(d) *Hand labor.* The contractor shall employ hand labor where the use of power machinery is unsafe or unable to produce a finished job. Hand labor shall also be used to clean the site of any debris.

(e) *Grading.* The site shall be graded to conform to all surrounding areas and shall be finished to have a uniform surface that shall not permit ponding of water. The contractor shall grade and shape the site to drain, complete fine grading, and final clean-up as part of the lump sum price for demolition.

(f) *Final cleaning up.* Before acceptance of the demolition work, the contractor shall remove all unused material and rubbish from the site of the work, remedy any objectionable conditions the contractor may have created on private property, and leave the right-of-way in a neat and presentable condition. The contractor shall install silt fence as shown in the special conditions. The contractor shall not make agreements that allow salvaged or unused material to remain on the property. All ground occupied by the contractor in connection with the work shall be restored. Restoration shall include appropriate smoothing to its original condition and placement of sod in the area. Final cleaning up shall be subject to approval of the Building Commissioner and in accordance with applicable regulations.

(F) *Sanitary sewer and water service disconnections.*

(1) *Water service.* Upon award of contract, the contractor shall contact the town Water Department and make arrangements for removal of the water meters by the town Water Department prior to demolition. The contractor shall excavate and expose the water service, both domestic and fire protection, to the buildings at the location(s) of the town water shut-off valve. The contractor shall

neatly cut the water service line at a point 2-4 feet on the building side of the shut-off valve, cap, and seal the line, and back-fill the excavation. The contractor shall contact the town Water Department, giving them not less than 48 hours notice of when the Water Department should be on-site to inspect the exposed service line and cap. Failure to have city inspection will result in re-excavating at the contractor's expense.

(2) *Sewer service.*

(a) Upon award of contract, the contractor shall locate the sanitary sewer service in the building and direction of flow.

(b) The contractor shall excavate and expose sanitary sewer service lateral at a point approximately ten feet on the building side of the property line.

(c) Cut pipe cleanly and square.

(d) Install rubber coupling with stainless steel bands (Fernco brand or equal) with SDR-35 PVC pipe plug.

(e) Mark end of pipe with 4x4 pressure treated wood post starting at end of pipe and extending a minimum of 12 above grade.

(f) The contractor shall contact the town Water Department, giving them not less than 48 hours notice of when the Waste Water Department should be on-site to inspect the exposed sewer line and cap prior to backfilling.

(g) Failure to have town inspection will result in re-excavating at the contractor's expense.

(h) See special provisions for storm water utilities to remain and/or be sealed.

(G) *Soding.* All disturbed areas of adjoining property owners associated with the work shall be soded in accordance with the following criteria.

(1) *Furnishing soding materials.* Unless specifically indicated otherwise, this section includes furnishing of all materials, equipment, and labor necessary for the installation of lawns and grass as specified and including the following items:

(a) Fine grading of topsoil;

(b) Fertilization of lawn areas; and

(c) Soding.

(2) *Working conditions.* Soding operations shall be conducted under favorable weather conditions during the next season or seasons which are normal for such work as determined by accepted practice in the locality of the project.

(3) *Fertilizer.* Commercial fertilizer shall be used for initial preparation and shall conform to the applicable state fertilizer laws.

(4) *Examination.*

(a) Sodding contractor to examine rough grade for proper elevation and notify the Building Commissioner of any areas detrimental to successful development of a lawn.

(b) Do not proceed with work until unsatisfactory conditions have been corrected and acceptable.

(c) Two pounds of 12-12-12 formula commercial fertilizer per cubic yard shall be thoroughly mixed with the topsoil, or not less than 10# per 1,000 square foot of lawn surface, whichever is the greater.

(5) *Placement of sod.* Immediately before any seed is to be sown, the ground shall be scarified as necessary and shall be raked until the surface is smooth, friable, and of uniformly fine texture. Lawn areas shall be sodded evenly by hand and worked into existing lawn areas that remain.

(H) *Safety and fencing.*

(1) *Safety.* The contractor shall comply with all applicable current federal, state, and local safety and health regulations.

(2) *Safety fencing.* The contractor shall furnish and place a temporary safety fence around the site of the work. For purposes of this project, poly-orange barrier fence and barricades shall be used. The fencing, including all materials, shall be considered incidental to the demolition. The safety fence shall remain in place until the demolished materials are removed from the site and all holes or excavated areas are backfilled. The fencing material shall remain the property of the contractor (see special provisions).

(I) *Authorized workers.* Only the contractor and his or her employees are allowed to demolish, dismantle, detach, or dispose of any part of the demolition structure or its contents.

(J) *Daily clean-up of right-of-way and private property.* At the end of each workday, the contractor shall clean sidewalks, streets, and private property of any debris caused by the demolition operation. Special care shall be taken to avoid debris and silt entering the storm water system. The Water Department will inspect storm manholes at the end of demolition operations. If debris or silt has accumulated, the contractor shall remove them at his or her expense.

(Ord. 09-408, passed 8-3-09) Penalty, see § 10.99

CHAPTER 154: FLOOD HAZARD AREAS

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GENERAL PROVISIONS

§ 154.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has in I.C. 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Mentone does hereby adopt the following floodplain management regulations.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.02 FINDINGS OF FACT.

(A) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.03 STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(F) Make federal flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.04 OBJECTIVES.

The objectives of this chapter are:

- (A) To protect human life and health.
- (B) To minimize expenditure of public money for costly flood control projects.
- (C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (D) To minimize prolonged business interruptions.
- (E) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (F) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.05 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

ZONE A. Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

ZONE AE AND A1-A30. Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

ZONE AO. Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AR. Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

ZONE A99. Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See **STRUCTURE**.

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

DEVELOPMENT.

(1) Any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, or placement of a structure or any addition to a structure;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) **DEVELOPMENT** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

ELEVATION CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See **FLOOD**)

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus two feet at any given location in the SFHA. (See **FREEBOARD**)

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

FLOODPROOFING (DRYFLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a registered professional engineer or architect.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE. Those portions of the floodplain lying outside the floodway.

HARDSHIP (as related to variances of this chapter). The exceptional hardship that would result from a failure to grant the requested variance. The Town of Mentone Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional, inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURES. Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - (b) The total net area of all openings shall be at least one square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and
 - (c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929 AS CORRECTED IN 1929. A vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the start of construction commenced after the effective date of the community's first floodplain ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88) AS ADOPTED IN 1993. A vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See **REGULATORY FLOOD**.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 154.07. The **REGULATORY FLOOD** is also known by the term **BASE FLOOD, ONE-PERCENT ANNUAL CHANCE FLOOD, and 100-YEAR FLOOD.**

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The SFHAs of the Town of Mentone are generally identified as such on the Kosciusko County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 30, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred repetitive loss or substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a historic structure, provided that the alteration will not preclude the structures continued designation as a historic structure.

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. See definition for **A ZONE**.

ZONE B, C, AND X. Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Mentone.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.07 BASIS FOR ESTABLISHING REGULATORY FLOOD DATA.

This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(A) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Mentone shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Kosciusko County, Indiana and Incorporated Areas dated September 30, 2015 and the corresponding Flood Insurance Rate Map dated September 30, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(B) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Mentone, delineated as an "A Zone" on the Kosciusko County, Indiana and Incorporated Areas Flood Insurance Rate Map dated September 30, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(C) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

(D) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA. (Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard. (Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.09 COMPLIANCE.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.11 DISCREPANCY BETWEEN MAPPED FLOODPLAIN AND ACTUAL GROUND ELEVATIONS.

(A) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(B) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(C) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.12 INTERPRETATION.

In the interpretation and application of this chapter all provisions shall be:

(A) Considered as minimum requirements.

(B) Liberally construed in favor of the governing body.

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.13 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the Town of Mentone, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

ADMINISTRATION**§ 154.25 DESIGNATION OF ADMINISTRATOR.**

The Town Council of the Town of Mentone hereby appoints the Building Inspector to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

(Ord. 07-392, passed 10-1-07)

§ 154.26 PERMIT PROCEDURES.

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(A) Application stage.

- (1) A description of the proposed development.
- (2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- (3) A legal description of the property site.
- (4) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- (5) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- (6) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- (7) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 154.27(B)(6) for additional information.)

(B) Construction stage.

- (1) Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.

(2) Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

(C) *Finished construction.* Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator. (Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to §§ 154.44 and 154.46(A), and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and as-built elevation and floodproofing data for all buildings constructed subject to this chapter.

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(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 154.26.

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 154.26.

(13) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the flood protection grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. authorized town officials shall have the right to enter and inspect properties located in the SFHA.

(14) *Stop work orders.*

(a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) *Revocation of permits.*

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

PROVISIONS FOR FLOOD HAZARD REDUCTION**§ 154.40 GENERAL STANDARDS.**

In all SFHAs and known flood prone areas the following provisions are required:

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter.

(J) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(K) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of one to one) due to the fill or structure.

(1) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(2) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

(3) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

(4) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(5) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

(6) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(7) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this subchapter. (Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.41 SPECIFIC STANDARDS.

In all SFHAs, the following provisions are required:

(A) In addition to the requirements of § 154.40, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any structure having a floor area greater than 400 square feet.

(2) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

(3) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(6) Reconstruction or repairs made to a repetitive loss structure.

(7) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(B) *Residential structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 154.41(D).

(C) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the

lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 154.41(D). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(1) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in § 154.27(B)(12).

(2) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(D) *Elevated structures.*

(1) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

(2) Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).

(b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(g) Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of § 154.41(D). Periodic

inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Kosciusko County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds six feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Kosciusko County Recorder.

(E) *Structures constructed on fill.* A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

(1) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

(2) The fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(6) Fill shall be composed of clean granular or earthen material.

(F) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

(1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 154.41(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 154.41(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than 180 days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes as stated earlier in this section.

(G) *Accessory structures.* Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

(1) Shall not be used for human habitation.

(2) Shall be constructed of flood resistant materials.

(3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

(4) Shall be firmly anchored to prevent flotation.

(5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

(6) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 154.41(D).

(H) *Above ground gas or liquid storage tanks.* All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.42 STANDARDS FOR SUBDIVISION PROPOSALS.

- (A) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (D) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres.
- (E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.43 CRITICAL FACILITY.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.44 STANDARDS FOR IDENTIFIED FLOODWAYS.

(A) Located within SFHAs, established in § 154.07, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential, if the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving, and the like undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(B) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in §§ 154.40 through 154.47 have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(C) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(D) For all projects involving channel modifications or fill (including levees) the town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.45 STANDARDS FOR IDENTIFIED FRINGE.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in §§ 154.40 through 154.47 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.
(Ord. 07-392, passed 10-1-07)

§ 154.46 STANDARDS FOR SFHAS WITHOUT ESTABLISHED BASE FLOOD ELEVATION AND/OR FLOODWAYS/FRINGES.

(A) Drainage area upstream of the site is greater than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided

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the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in §§ 154.40 through 154.47 have been met.

(B) Drainage area upstream of the site is less than one square mile:

(1) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

(2) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in §§ 154.40 through 154.47 have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.
(Ord. 07-392, passed 10-1-07)

§ 154.47 STANDARDS FOR FLOOD PRONE AREAS.

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per §§ 154.40 through 154.47.
(Ord. 15-442, passed 9-8-15)

VARIANCE PROCEDURES

§ 154.60 DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Town of Mentone Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.61 DUTIES OF VARIANCE AND APPEALS BOARD.

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the board may appeal such decision to the Kosciusko County Superior or Circuit Court.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.62 VARIANCE PROCEDURES.

In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

- (A) The danger of life and property due to flooding or erosion damage.
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (C) The importance of the services provided by the proposed facility to the community.
- (D) The necessity of the facility to a waterfront location, where applicable.
- (E) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (F) The compatibility of the proposed use with existing and anticipated development.
- (G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (H) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (I) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (J) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.63 CONDITIONS FOR VARIANCES.

- (A) Variances shall only be issued when there is:
 - (1) A showing of good and sufficient cause.
 - (2) A determination that failure to grant the variance would result in exceptional hardship.
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (B) No variance for a residential use within a floodway subject to §§ 154.44 through 154.46(A) may be granted.
- (C) Any variance granted in a floodway subject to §§ 154.44 through 154.46(A) will require a permit from the Indiana Department of Natural Resources.
- (D) Variances to the Provisions for Flood Hazard Reduction of § 154.41, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (E) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(F) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Article 6, Section E).

(H) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See § 154.64).
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.64 VARIANCE NOTIFICATION.

(A) Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(B) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.65 HISTORIC STRUCTURE.

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.66 SPECIAL CONDITIONS.

Upon the consideration of the factors listed in Article 6, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this §§ 154.60 through 154.66.
(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

§ 154.99 PENALTIES FOR VIOLATION.

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Mentone. All violations shall be punishable by a fine not exceeding \$25.

(A) A separate offense shall be deemed to occur for each day the violation continues to exist.

(B) The Town of Mentone Town Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(C) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(Ord. 07-392, passed 10-1-07; Am. Ord. 15-442, passed 9-8-15)

TABLE OF SPECIAL ORDINANCES

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Ordinance Number	Year	Description
1000	1970	Ordinance 1000
1001	1971	Ordinance 1001
1002	1972	Ordinance 1002
1003	1973	Ordinance 1003
1004	1974	Ordinance 1004
1005	1975	Ordinance 1005
1006	1976	Ordinance 1006
1007	1977	Ordinance 1007
1008	1978	Ordinance 1008
1009	1979	Ordinance 1009
1010	1980	Ordinance 1010
1011	1981	Ordinance 1011
1012	1982	Ordinance 1012
1013	1983	Ordinance 1013
1014	1984	Ordinance 1014
1015	1985	Ordinance 1015
1016	1986	Ordinance 1016
1017	1987	Ordinance 1017
1018	1988	Ordinance 1018
1019	1989	Ordinance 1019
1020	1990	Ordinance 1020
1021	1991	Ordinance 1021
1022	1992	Ordinance 1022
1023	1993	Ordinance 1023
1024	1994	Ordinance 1024
1025	1995	Ordinance 1025
1026	1996	Ordinance 1026
1027	1997	Ordinance 1027
1028	1998	Ordinance 1028
1029	1999	Ordinance 1029
1030	2000	Ordinance 1030
1031	2001	Ordinance 1031
1032	2002	Ordinance 1032
1033	2003	Ordinance 1033
1034	2004	Ordinance 1034
1035	2005	Ordinance 1035
1036	2006	Ordinance 1036
1037	2007	Ordinance 1037
1038	2008	Ordinance 1038
1039	2009	Ordinance 1039
1040	2010	Ordinance 1040
1041	2011	Ordinance 1041
1042	2012	Ordinance 1042
1043	2013	Ordinance 1043
1044	2014	Ordinance 1044
1045	2015	Ordinance 1045
1046	2016	Ordinance 1046
1047	2017	Ordinance 1047
1048	2018	Ordinance 1048
1049	2019	Ordinance 1049
1050	2020	Ordinance 1050
1051	2021	Ordinance 1051
1052	2022	Ordinance 1052
1053	2023	Ordinance 1053
1054	2024	Ordinance 1054
1055	2025	Ordinance 1055
1056	2026	Ordinance 1056
1057	2027	Ordinance 1057
1058	2028	Ordinance 1058
1059	2029	Ordinance 1059
1060	2030	Ordinance 1060
1061	2031	Ordinance 1061
1062	2032	Ordinance 1062
1063	2033	Ordinance 1063
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1066	2036	Ordinance 1066
1067	2037	Ordinance 1067
1068	2038	Ordinance 1068
1069	2039	Ordinance 1069
1070	2040	Ordinance 1070
1071	2041	Ordinance 1071
1072	2042	Ordinance 1072
1073	2043	Ordinance 1073
1074	2044	Ordinance 1074
1075	2045	Ordinance 1075
1076	2046	Ordinance 1076
1077	2047	Ordinance 1077
1078	2048	Ordinance 1078
1079	2049	Ordinance 1079
1080	2050	Ordinance 1080
1081	2051	Ordinance 1081
1082	2052	Ordinance 1082
1083	2053	Ordinance 1083
1084	2054	Ordinance 1084
1085	2055	Ordinance 1085
1086	2056	Ordinance 1086
1087	2057	Ordinance 1087
1088	2058	Ordinance 1088
1089	2059	Ordinance 1089
1090	2060	Ordinance 1090
1091	2061	Ordinance 1091
1092	2062	Ordinance 1092
1093	2063	Ordinance 1093
1094	2064	Ordinance 1094
1095	2065	Ordinance 1095
1096	2066	Ordinance 1096
1097	2067	Ordinance 1097
1098	2068	Ordinance 1098
1099	2069	Ordinance 1099
1100	2070	Ordinance 1100
1101	2071	Ordinance 1101
1102	2072	Ordinance 1102
1103	2073	Ordinance 1103
1104	2074	Ordinance 1104
1105	2075	Ordinance 1105
1106	2076	Ordinance 1106
1107	2077	Ordinance 1107
1108	2078	Ordinance 1108
1109	2079	Ordinance 1109
1110	2080	Ordinance 1110
1111	2081	Ordinance 1111
1112	2082	Ordinance 1112
1113	2083	Ordinance 1113
1114	2084	Ordinance 1114
1115	2085	Ordinance 1115
1116	2086	Ordinance 1116
1117	2087	Ordinance 1117
1118	2088	Ordinance 1118
1119	2089	Ordinance 1119
1120	2090	Ordinance 1120
1121	2091	Ordinance 1121
1122	2092	Ordinance 1122
1123	2093	Ordinance 1123
1124	2094	Ordinance 1124
1125	2095	Ordinance 1125
1126	2096	Ordinance 1126
1127	2097	Ordinance 1127
1128	2098	Ordinance 1128
1129	2099	Ordinance 1129
1130	2100	Ordinance 1130
1131	2101	Ordinance 1131
1132	2102	Ordinance 1132
1133	2103	Ordinance 1133
1134	2104	Ordinance 1134
1135	2105	Ordinance 1135
1136	2106	Ordinance 1136
1137	2107	Ordinance 1137
1138	2108	Ordinance 1138
1139	2109	Ordinance 1139
1140	2110	Ordinance 1140
1141	2111	Ordinance 1141
1142	2112	Ordinance 1142
1143	2113	Ordinance 1143
1144	2114	Ordinance 1144
1145	2115	Ordinance 1145
1146	2116	Ordinance 1146
1147	2117	Ordinance 1147
1148	2118	Ordinance 1148
1149	2119	Ordinance 1149
1150	2120	Ordinance 1150
1151	2121	Ordinance 1151
1152	2122	Ordinance 1152
1153	2123	Ordinance 1153
1154	2124	Ordinance 1154
1155	2125	Ordinance 1155
1156	2126	Ordinance 1156
1157	2127	Ordinance 1157
1158	2128	Ordinance 1158
1159	2129	Ordinance 1159
1160	2130	Ordinance 1160
1161	2131	Ordinance 1161
1162	2132	Ordinance 1162
1163	2133	Ordinance 1163
1164	2134	Ordinance 1164
1165	2135	Ordinance 1165
1166	2136	Ordinance 1166
1167	2137	Ordinance 1167
1168	2138	Ordinance 1168
1169	2139	Ordinance 1169
1170	2140	Ordinance 1170
1171	2141	Ordinance 1171
1172	2142	Ordinance 1172
1173	2143	Ordinance 1173
1174	2144	Ordinance 1174
1175	2145	Ordinance 1175
1176	2146	Ordinance 1176
1177	2147	Ordinance 1177
1178	2148	Ordinance 1178
1179	2149	Ordinance 1179
1180	2150	Ordinance 1180
1181	2151	Ordinance 1181
1182	2152	Ordinance 1182
1183	2153	Ordinance 1183
1184	2154	Ordinance 1184
1185	2155	Ordinance 1185
1186	2156	Ordinance 1186
1187	2157	Ordinance 1187
1188	2158	Ordinance 1188
1189	2159	Ordinance 1189
1190	2160	Ordinance 1190
1191	2161	Ordinance 1191
1192	2162	Ordinance 1192
1193	2163	Ordinance 1193
1194	2164	Ordinance 1194
1195	2165	Ordinance 1195
1196	2166	Ordinance 1196
1197	2167	Ordinance 1197
1198	2168	Ordinance 1198
1199	2169	Ordinance 1199
1200	2170	Ordinance 1200
1201	2171	Ordinance 1201
1202	2172	Ordinance 1202
1203	2173	Ordinance 1203
1204	2174	Ordinance 1204
1205	2175	Ordinance 1205
1206	2176	Ordinance 1206
1207	2177	Ordinance 1207
1208	2178	Ordinance 1208
1209	2179	Ordinance 1209
1210	2180	Ordinance 1210
1211	2181	Ordinance 1211
1212	2182	Ordinance 1212
1213	2183	Ordinance 1213
1214	2184	Ordinance 1214
1215	2185	Ordinance 1215
1216	2186	Ordinance 1216
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1223	2193	Ordinance 1223
1224	2194	Ordinance 1224
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1227	2197	Ordinance 1227
1228	2198	Ordinance 1228
1229	2199	Ordinance 1229
1230	2200	Ordinance 1230
1231	2201	Ordinance 1231
1232	2202	Ordinance 1232
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1234	2204	Ordinance 1234
1235	2205	Ordinance 1235
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1238	2208	Ordinance 1238
1239	2209	Ordinance 1239
1240	2210	Ordinance 1240
1241	2211	Ordinance 1241
1242	2212	Ordinance 1242
1243	2213	Ordinance 1243
1244	2214	Ordinance 1244
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1246	2216	Ordinance 1246
1247	2217	Ordinance 1247
1248	2218	Ordinance 1248
1249	2219	Ordinance 1249
1250	2220	Ordinance 1250
1251	2221	Ordinance 1251
1252	2222	Ordinance 1252
1253	2223	Ordinance 1253
1254	2224	Ordinance 1254
1255	2225	Ordinance 1255
1256	2226	Ordinance 1256
1257	2227	Ordinance 1257
1258	2228	Ordinance 1258
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1267	2237	Ordinance 1267
1268	2238	Ordinance 1268
1269	2239	Ordinance 1269
1270	2240	Ordinance 1270
1271	2241	Ordinance 1271
1272	2242	Ordinance 1272
1273	2243	Ordinance 1273
1274	2244	Ordinance 1274
1275	2245	Ordinance 1275
1276	2246	Ordinance 1276
1277	2247	Ordinance 1277
1278	2248	Ordinance 1278
1279	2249	Ordinance 1279
1280	2250	Ordinance 1280
1281	2251	Ordinance 1281
1282	2252	Ordinance 1282
1283	2253	Ordinance 1283
1284	2254	Ordinance 1284
1285	2255	Ordinance 1285
1286	2256	Ordinance 1286
1287	2257	Ordinance 1287
1288	2258	Ordinance 1288
1289	2259	Ordinance 1289
1290	2260	Ordinance 1290
1291	2261	Ordinance 1291
1292	2262	Ordinance 1292
1293	2263	Ordinance 1293
1294	2264	Ordinance 1294
1295	2265	Ordinance 1295
1296	2266	Ordinance 1296
1297	2267	Ordinance 1297
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1299	2269	Ordinance 1299
1300	2270	Ordinance 1300
1301	2271	Ordinance 1301
1302	2272	Ordinance 1302
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1306	2276	Ordinance 1306
1307	2277	Ordinance 1307
1308	2278	Ordinance 1308
1309	2279	Ordinance 1309
1310	2280	Ordinance 1310
1311	2281	Ordinance 1311
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1313	2283	Ordinance 1313
1314	2284	Ordinance 1314
1315	2285	Ordinance 1315
1316	2286	Ordinance 1316
1317	2287	Ordinance 1317
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1321	2291	Ordinance 1321
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1323	2293	Ordinance 1323
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1325	2295	Ordinance 1325
1326	2296	Ordinance 1326
1327	2297	Ordinance 1327
1328	2298	Ordinance 1328
1329	2299	Ordinance 1329
1330	2300	Ordinance 1330
1331	2301	Ordinance 1331
1332	2302	Ordinance 1332
1333	2303	Ordinance 1333
1334	2304	Ordinance 1334
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1336	2306	Ordinance 1336
1337	2307	Ordinance 1337
1338	2308	Ordinance 1338
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1341	2311	Ordinance 1341
1342	2312	Ordinance 1342
1343	2313	Ordinance 1343
1344	2314	Ordinance 1344
1345	2315	Ordinance 1345
1346	2316	Ordinance 1346
1347	2317	Ordinance 1347
1348	2318	Ordinance 1348
1349	2319	Ordinance 1349
1350	2320	Ordinance 1350
1351	2321	Ordinance 1351
1352	2322	Ordinance 1352
1353	2323	Ordinance 1353
1354	2324	Ordinance 1354
1355	2325	Ordinance 1355
1356	2326	Ordinance 1356
1357	2327	Ordinance 1357
1358	2328	Ordinance 1358
1359	2329</	

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
170	- -66	Annexing a tract of land being part of the southwest quarter of the southeast quarter of Section 35, Township 32 North, Range 4 East.
174	4-3-67	Annexing a tract of land lying in the northeast quarter of the northeast quarter of Section 2, Township 31 North, Range 4 East.
204	3-3-75	Annexing five tracts of land. <ul style="list-style-type: none"> (1) Commencing at the northwest corner of the southwest quarter of Section 35, Township 32 North, Range 4 East. (2) Commencing at the intersection of the existing east corporation line of the town and the north right-of-way line of State Road 25. (3) Commencing at the southwest corner of the northwest quarter of Section 1, Township 31 North, Range 4 East. (4) Commencing at the southeast corner of the northeast quarter of Section 2, Township 31 North, Range 4 East. (5) Commencing at the intersection of the south line of Section 34, with the existing corporation line of the town; thence west along the south line of Section 34.
12-425	11-5-12	Annexing a tract of land in the southwest quarter of the northwest quarter of Section 1, Township 31 North, Range 4 East.

TABLE II: CONTRACTS AND AGREEMENTS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
183	12-22-69	A contract between the town and Northern Indiana Public Service Company for lighting the streets of the town.
256	10-7-85	A contract between the town and Northern Indiana Public Service Company for lighting the streets of the town.
Res. 16-449	9-6-16	Purchase agreement for certain real estate from Jack and Rita Simpson.

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TABLE III: FRANCHISES

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
250	11-8-84	Granting a cable television franchise to Dow-Sat of Indiana, Inc. and its successors and assigns.
253	5-6-85	The transfer of a cable television franchise from Dow-Sat of Indiana, Inc. to Oak Cable Systems of Indiana, Inc.

TABLE IV: VACATIONS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
232	2-2-81	Vacating the portion of Harvard Street located between Jackson Street and Harrison Street.
256	3-3-86	Vacating a public alley and certain public streets beginning at an iron pipe on the south line of Washington Street, and 4 rods south of the southeast corner of Lot 11 of the O.P. of the town.
277-1	11-6-89	Vacating certain easements or ways and public grounds situate within Bowmans Addition.
286-1	11-4-91	Vacating certain easements or ways and public grounds situate within Bowmans Addition.
288	9-9-91	Vacating certain easements or ways and public grounds situate within Bowmans Addition.
303	12-6-93	Vacating an alley running east and west of width of 16.57 feet beginning at a point being the northwest corner of lot 81; an alley running north and south of width of 16.5 feet beginning at a point being the northeast corner of lot 82; an alley running north and south of width of 16.5 feet beginning at a point being the northeast corner of lot 84; and Jackson Street running east and west of width of 66 feet beginning at a point being the northwest corner of lot 82.
337	12-1-97	Vacating the public ways of the alley running north and south bounded by Yale, Harrison, Harvard and Jackson Streets, Princeton Street between Jackson and High Streets, the alley running north and south in the two-block area

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Ord. No.	Date	Description
337	12-1-97	bounded by Princeton, High and Jackson Streets, Harrison Street between Harvard and the street's termination at the east edge of Bowman's addition, a portion of Harrison Street between Yale and Harvard, south and east of a line approximately six feet from the existing school building and the proposed new addition, Harvard Street between the south right-of-way line of Harrison Street and Harvard Street's northern terminus, High Street between Harvard Street and High Street's eastern terminus at the east edge of Bowman's Addition.
379-06	11-6-06	Vacating alleys located within Lots numbered 96, 97, 97, 99, 115, 116, 117, and 118 of the Original Plat of the town and title shall vest in Jack W. Simpson and Rita M. Simpson.
08-397	5-5-08	<p>Vacating streets and alleys:</p> <p>(1) Elm Street as described in the Original Plat to the town lying between Main Street and Washington Street:</p> <p>(a) Monroe Street as described in the Original Plat to the town lying between Elm Street and Oak Street;</p> <p>(b) Jefferson Street as described in the Original Plat to the town lying between Elm Street and Oak Street; and</p> <p>(c) Washington Street as described in the Original Plat to the town lying between Elm Street and Oak Street.</p> <p>(2) Title to a portion of Elm Street and a portion of Monroe Street shall vest in The First Baptist Church:</p> <p>(a) All of Elm Street from the south line of Main Street to a point 590 feet south of Main Street;</p>

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
08-397	5-5-08	<p>(b) The west 1/2 of Elm Street beginning 590 feet south of the south line of Main Street, thence continuing an additional 165 feet south of Elm Street; and</p> <p>(c) All of Monroe Street that lies east of Elm Street and west of Oak Street in the Original Plat to the town.</p> <p>(3) Title to a portion of Elm Street and a portion of Jefferson Street shall vest in the Lawrence D. Bell Aircraft Museum, Inc.:</p> <p>(a) The east 1/2 of Elm Street beginning 590 feet south of the south line of Main Street, thence continuing an additional 165 feet south on Elm Street; and</p> <p>(b) All of Jefferson Street that lies east of Elm Street and west of Oak Street in the Original Plat to the town.</p> <p>(4) Title to a portion of Elm Street and a portion of Washington Street shall vest in the town:</p> <p>(a) All of Elm Street beginning 755 feet south of the south line of Main Street and continuing south to the south line of Washing Street; and</p> <p>(b) All of Washington Street that lies east of Elm Street and west of Oak Street in the Original Plat to the town.</p> <p>(5) Vacation of alleys:</p> <p>(a) Alleys described in the Original Plat to the town that abut and adjoin Lots 70, 69, 48, 47, 67, 49, 50, 66, 51, 65, 52,</p>

Mentone - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
08-397	5-5-08	<p>and the north portions of Lots 64 and 53 adjoining property presently owned by The First Baptist Church of Mentone, Inc., shall vest in The First Baptist Church of Mentone, Inc.</p> <p>(b) Alleys as described in the Original Plat to the town that abut and adjoin Lots 63 and 54 and the south portion of Lots 64 and 53 and the north portion of Lots 62 and 55 adjoining property presently owned by the Lawrence D. Bell Aircraft Museum, Inc., shall vest in the Lawrence D. Bell Aircraft Museum, Inc.</p> <p>(c) Alleys as described in the Original Plat to the town that abut and adjoin Lots 61, 56, 60, 57, 59, 58, and the south portion of Lots 62 and 55 as presently owned by the town, shall vest in the town.</p>
15-440	2-3-15	Vacation of a public way designated as "street" in the Plat of Tippecanoe Estates First Addition recorded in Plat Book 7, page 99, in the Office of the Recorder of Kosciusko County, Indiana.

TABLE V. ECONOMIC REVITALIZATION AREAS

<i>Ord. No.</i>	<i>Date</i>	<i>Description</i>
302	11-1-93	Designating certain tracts of land located in the southeast quarter of Section 34, Township 32 North, Range 4 East and those lots numbered 77 - 86 and 105 and all alleys between Elm and Etna Streets, together with Jackson Street north of lots 82 - 84.
369-04	9-13-04	Designating a certain tract of land located at 105 Etna Street, Parcel No. 14-713001-10, an Economic Revitalization Area.
370-04	10-5-04	Confirming the designation of a certain tract of land located at 105 Etna Street, Parcel No. 14-713001-10, an Economic Revitalization Area.

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Table of Special Ordinances

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340	3-16-98	Authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of Mentone, providing for the safeguarding of the interests of the owners of the bonds, other matters connected therewith, including the issuance of notes in anticipation of the bonds.
10-412	4-5-10	Authorizing the issuance of sewage works revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the sewage works of Mentone, providing for the safeguarding of the interests of the owners of the bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds.

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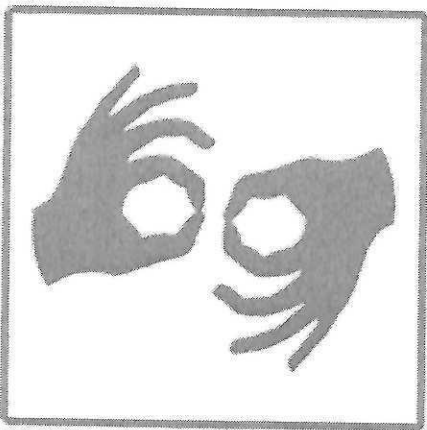
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Town of Mentone

Americans with Disabilities Act Transition Plan: Pedestrian Facilities in the Public Right-of-Way



2012

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INTRODUCTION

The purpose of this plan is to ensure that the Town creates reasonable, accessible paths of travel in the public right-of-way for everyone, including people with disabilities. The Town has made a significant and long-term commitment to improving the accessibility of their pedestrian facilities. The Transition Plan identifies physical barriers and prioritizes improvements that should to be made throughout the Town. This Transition Plan describes the existing policies and programs to enhance the overall pedestrian accessibility.

LEGAL REQUIREMENTS

The federal legislation known as the American with Disabilities Act (ADA), enacted on July 26, 1990, provides comprehensive civil rights protections to persons with disabilities in the areas of employment, state and local government services, and access to public accommodations, transportation, and telecommunications

Title II specifically applies to “public entities” (state and local governments) and the programs, services, and activities they deliver. Title II Article 8, requires public entities to take several steps designed to achieve compliance. The plan shall, at a minimum includes:

1. A list of the physical barriers in a public entity’s facilities that limit the accessibility of its programs, activities, or services to individuals with disabilities.
2. A detailed outline of the methods to be utilized to remove these barriers and make the facilities accessible.
3. The schedule for taking the necessary steps to achieve compliance with Title II.
4. The name of the official responsible for the plan’s implementation.

Transition plans provide a method for a public entity to schedule and implement ADA required improvements to existing streets and sidewalks. Before a transition plan can be developed, an inventory of the current curb ramps and sidewalks must be developed.



INTRODUCTION

The purpose of this book is to provide a comprehensive survey of the political economy of the United States. It is divided into two main parts: the first part deals with the theory of the political economy, and the second part deals with the practice of the political economy. The first part is divided into three chapters: the first chapter deals with the theory of the political economy, the second chapter deals with the theory of the political economy, and the third chapter deals with the theory of the political economy. The second part is divided into three chapters: the first chapter deals with the practice of the political economy, the second chapter deals with the practice of the political economy, and the third chapter deals with the practice of the political economy.

THEORY

The theory of the political economy is the study of the behavior of individuals and groups in the political system. It is a branch of political science that deals with the behavior of individuals and groups in the political system. It is a branch of political science that deals with the behavior of individuals and groups in the political system. It is a branch of political science that deals with the behavior of individuals and groups in the political system.

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IDENTIFIED OBSTACLES TO THE PUBLIC RIGHT-OF-WAY

The Town has a two-tiered system to identify and assess obstacles in the public right of way: a Preliminary Evaluation and a Detailed Evaluation. The barriers used in the evaluations are based on the *Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way* (ADA Guidelines) from the U.S. Architectural and Transportation Barriers Compliance Board.

PRELIMINARY EVALUATION

The first tier is a Preliminary Evaluation of the intersections. The purpose of this evaluation is to determine which intersections are obviously non-compliant to the ADA Guidelines and to get a comprehensive overview of the complete pedestrian network. The preliminary inventory evaluates three (3) criteria for curb ramps and three (3) criteria for sidewalks:

Curb Ramps

1. Is there a curb ramp?
2. Does the curb ramp have a color contrasting detectable warning?
3. Does the curb ramp have a clear landing at the top of the ramp?

Sidewalks

1. Is there a continuous clear space for pedestrian access?
2. Does the sidewalk appear to provide adequate passing zones?
3. Does the sidewalk appear to be smooth without grade breaks?

The Preliminary Evaluation utilizes aerial and street-level photography to view each intersection. The criteria used can be seen on these aerials and are key design components to determine ADA compliance. If the curb ramps and sidewalks do not meet the criteria, then that intersection does not need further evaluation because it is obviously non-complaint with the ADA Guidelines. If it did meet the criteria, then that intersection would be “potentially compliant” and would need a Detailed Evaluation to determine if it fully complies with the ADA Guidelines.

DETAILED EVALUATION

The second tier is a Detailed Evaluation of the intersections identified as “potentially compliant” during the Preliminary Evaluation. This requires fieldwork at the intersection and measuring of specific physical attributes, such as width, running slope, and gaps in the curb ramp or sidewalk, to determine compliance to the identified ADA barriers. For a description of the identified barriers see Attachment A. When the data is gathered, it is



THE REPORTING OF AIR TRAFFIC ACCIDENTS

The report is a document which is prepared by the investigator and is intended to provide a detailed account of the accident. It is a document which is prepared by the investigator and is intended to provide a detailed account of the accident. It is a document which is prepared by the investigator and is intended to provide a detailed account of the accident.

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1. Introduction	1
2. Description of the accident	2
3. Investigation of the accident	3
4. Conclusion	4

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recorded into an intersection database¹. The result from this evaluation is a detailed understanding of the ADA barriers at that intersection.

METHODS TO REMOVING BARRIERS – POLICIES & PRIORITIES

The Town utilizes many different approaches in removing barriers in the public right-of-way, including proactively identifying and eliminating the barrier, responding to public complaints, and ensuring the appropriate design and build-out of new construction following the most recent design guidelines.

BARRIER REMOVAL PRIORITIES

The Town of Mentone bases barrier removal priorities on two factors: location and the accessibility condition of the intersection.

Location Priority

According to the *Accessible Rights-of-Way: A Design Guide*, “the DOJ regulation imposes a specific construction requirement...specifies a priority for locating (curb ramps) at: State and local government offices and facilities; transportation; places of public accommodation; places of employment; and other locations.” Following this guidance, the City identified its location priority as follows:

1. Intersections serving government facilities,
2. Intersections serving commercial and employment centers, and
3. Intersections serving other areas.

Accessibility Condition

Using the data from the Preliminary Evaluation and the Detailed Evaluation, an accessibility condition, or Access Grade, can be determined. Points are assigned to the identified ADA barriers and calculated for each intersection. This will give the intersection an overall Condition Score for accessibility. The Access Grade assesses the Condition Score out of the total possible points and assigns a letter grade. This letter grade is A through E, A being the most accessible and E being the least accessible.

¹ The database is quite large and is constantly updated; it is not feasible for it to be included in the text of this ADA Transition Plan. The database may be made available for public review by advanced written request to the ADA Coordinator.

Priority Rank

In order to determine the overall priority of an intersection, or Priority Rank, the City uses the following matrix to match the location priority to the Access Grade.

	Location Priority		
	1	2	3
Access Grade	Locations serving Government Facilities	Locations serving Commercial & Employment Centers	Locations serving Other Areas
E	1E	2E	3E
D	1D	2D	3D
C	1C	2C	3C
B	1B	2B	3B
A	1A	2A	3A

Priority Rank Levels

High	Medium	Low
------	--------	-----

The Town determines the priority of improvements by identifying which of the groupings are high, medium, or low priorities. A listing of priority intersections and a map,² that shows which intersections are high, medium, and low priorities for barrier removal, are in Attachment B.

Intersections with no existing sidewalks were not provided a priority ranking, since they are not currently a part of Mentone's pedestrian network. Should sidewalks be added to these areas, it would be a priority to ensure that they meet ADA accessibility standards.

PUBLIC COMPLAINT PROCESS

The public complaint process is an integral part of the Transition Plan. Public complaints or requests may often drive the prioritization of improvements. To file a complaint or a request regarding accessibility of a sidewalk or curb ramp, contact the ADA Coordinator in writing and describe the issue in detail, including the location. The ADA Coordinator will route this information to the appropriate Town department for inspection and possible action. That department will then respond to the ADA Coordinator with its findings, and the ADA Coordinator will record the formal response and reply to the complainant/requestor. All complaints or requests will be kept on file and will include the response. Attachment C is a copy of the Town's public Grievance Procedure for Pedestrian Facilities in the Public Right-of-Way.

² The map is constantly updated and may be currently out-of-date from this plan. An updated map may be made available for public review by advanced written request to the ADA Coordinator.

NEW CONSTRUCTION & ALTERATIONS

In order to ensure the correct design of curb ramps, sidewalks, and crosswalks in new construction and alterations, the Town has adopted the *Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way* (see Attachment C for a copy of the resolution). Whenever there is an intersection improvement project or new construction project, any affected curb ramps, sidewalks, and crosswalks will be rebuilt to these ADA design guidelines, where feasible and reasonable.

SCHEDULE

As opportunity allows, the Town will make efforts to improve the ADA Accessibility of pedestrian facilities in the public right-of-way. As stated in the *Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way*, "compliance is required to the extent practicable within the scope of the project." There will be times when it is technically infeasible to provide technical compliance: for example, if clear space at the top of the ramp is obstructed by a building or the slope of a hill is so extreme as to prevent a reasonable slope for a ramp in both directions. The inventory process may not account for such situations and could show a high-priority rating when all feasible actions have been taken.

Additionally, given a program as broad and comprehensive as the Town's pedestrian network, the Town will follow the concept of Program Access under Title II of the ADA. Program Access does not necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities, as long as the program as a whole is accessible. Under this concept, the Town may choose not to install a sidewalk at some locations (or to install them as a lower priority later), as long as a reasonable path of travel is available even without the sidewalk.

RESPONSIBLE INDIVIDUAL

The official responsible for the implementation of the Town's ADA Transition Plan for the pedestrian facilities in the public right-of-way is:

Joshua Shepherd
Superintendent
201 W. Main St
Mentone, In 46539

Email: mwd@ncsbroadband.com
Phone: 574 - 353 - 7554
Fax: 574 - 353 - 1417

PUBLIC INPUT

The Town of Mentone provided opportunities for individuals to comment on this Transition Plan, which included:



What ADA Requires in the Right-of-Way

In order to ensure the highest degree of safety, accessibility, and convenience for all users, the Department of Justice (DOJ) has adopted the following standards for the design and construction of the public right-of-way. These standards are based on the principle of "universal design." Universal design is an integrated approach to the design of products and environments that enables people of all ages and abilities to use them easily and safely. The standards are based on the following principles:

CONCEPTS

An important concept that must be understood by all who are involved in the design and construction of the public right-of-way is the concept of "universal design." Universal design is an integrated approach to the design of products and environments that enables people of all ages and abilities to use them easily and safely. The standards are based on the following principles:

Universal design is a design approach that enables people of all ages and abilities to use products and environments easily and safely. The standards are based on the following principles:

Key Concepts in Universal

The following concepts are key to the design and construction of the public right-of-way:

Key Concepts in Universal
 Design
 The following concepts are key to the design and construction of the public right-of-way:

Key Concepts in Universal
 Design
 The following concepts are key to the design and construction of the public right-of-way:

FIGURE 1

The following figure illustrates the key concepts in the design and construction of the public right-of-way:



- Document copies available and notices sent to local public libraries
- Open house and presentation at a public meeting on Feb. 4, 2013

The Town published legal notices at the Mentone Post Office and the Mentone Town Hall starting on Jan. 7, 2013. The legal notices announced the availability of the Transition Plan draft at the local public library with easy public access. These notices also provided instructions regarding the timetable for comments and where to send them. Public comments were accepted for a period of no less than 30 days, ending Feb. 4, 2013. Public comment form is available on Attachment D.

Formal adoption of the Transition Plan took place on Feb. 4, 2013. It will be available by written formal request to the ADA Coordinator.

ATTACHMENT A

1.ADA GUIDELINES USED IN DETAILED EVALUATION

2.EVALUATION FORM

ADA GUIDELINES USED IN DETAILED EVALUATION

Curb Ramps

In evaluating the accessibility of existing curb ramps, the following factors were considered:

1. Is there a curb ramp?
2. Is there a curb ramp where a sidewalk crosses a street?
3. What type of curb ramp?
 - a. Perpendicular curb ramp
 - b. Parallel curb ramp
 - c. Blended transitions
4. Is the width of the curb ramp at least 4 feet wide (excluding flares)?
5. Are there detectable warnings properly installed where a curb ramp or blended transition connects to a street?
6. Is the running slope greater than 5% but less than 8.3% (blended transition 5% maximum)?
7. Is the cross slope less than 1%?
8. Is the landing a minimum of 4 feet x 4 feet?
9. Is the surface of the curb ramp or blended transition firm, stable, and slip resistant and clear of gratings, access covers, and other appurtenances?
10. Is the grade break at the top and bottom of the ramp flush and not located on the surface of the curb ramp, landing, or gutter areas?
11. Is the counter slope of the gutter or street at the foot of the curb ramp less than 5%?
12. Is the clear space beyond the curb face at least 4' x 4'?
13. If the curb ramp is perpendicular, is the slope of the flared sides less than 10% where a pedestrian path crosses the curb ramp or if the sides are returned, are they protected from cross travel?

Sidewalks

In evaluating the accessibility of existing sidewalks, the following factors were considered:

1. Is there a sidewalk at each corner?
2. Is there at least 4 feet of continuous and unobstructed clear width of a sidewalk (excluding the curb width)?
3. If the continuous width is less than 5 feet, are the passing spaces at least every 100 feet along the sidewalk that are 5 feet wide or greater?
4. Is the cross slope of the sidewalk less than 1%?
5. Where the sidewalk is adjacent to the street, does the grade of the sidewalk not exceed the general grade of the street?
6. Is the surface of the sidewalk firm, stable, and slip resistant?
7. Are any gaps in the surface less than ½ inch?
8. Is the sidewalk clear of grates or if there is a grate:
 - a. are the openings no more than ½ inch wide and
 - b. do the elongated openings run perpendicular to the direction of travel?
9. Is the sidewalk clear of protruding objects? If there is a protruding object is:
 - a. the leading edge of that object less than 17 inch and more than 80 inch above the ground, or
 - b. the protrusion less than 4 inches into the travel path of the sidewalk, or
 - c. a barrier is provided no more than 17 inches from the ground where the vertical clearance is less than 80 inches.

Crosswalks

In evaluating the accessibility of existing crosswalks, the following factors were considered:

1. Is there a crosswalk that connects two sidewalks across a street?
2. Is the width of the marked crosswalk at least 6 feet?
3. Does the cross slope of the crosswalk meet the following guidelines:

- a.If the crosswalk is crossing a street with a stop control, is the cross slope less than 1%?
- b.If the crosswalk is crossing a street without a stop control, is the cross slope less than 5%?
- 4.Is the running slope of the crosswalk less than 5%?
- 5.If the crosswalk crosses a median, is the length of the median at least 6 feet and does it contain detectable warnings located at curb line or edge of the roadway?
- 6.If the intersection signalized, does it have a pedestrian signal, if so, does the pedestrian signal phase allow enough time for a walking speed of 3.5 ft/sec?

2012

AMERICANS WITH DISABILITIES ACT TRANSITION PLAN:
PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY



LPA: _____ N/S: _____ E/W: _____ Ins: _____ Date: _____ ID: _____

[illegible]

Curb Ramps													
	Type	Width	Landing	Clear Space	Run %	Cross %	Gutter %	Edge Type	Flare %	Surface OK?	Warning OK?	Grd Brk OK?	
A	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
B	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
C	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
D	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
E	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
F	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
G	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	
H	DE-PA-BT-N	"	"	"	%	%	%	N-F-R	%	Y-N	Y-N	Y-N	

ATTACHMENT B

1.ADA PRIORITIES MAP

2.PRIORITY LISTING OF INTERSECTIONS

2012

AMERICANS WITH DISABILITIES ACT TRANSITION PLAN:
PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY

ATTACHMENT C

- 1. RESOLUTION ADOPTING ADA DESIGN GUIDELINES**
- 2. RESOLUTION APPOINTING ADA COORDINATOR**
- 3. ADA GRIEVANCE PROCEDURE**
- 4. RESOLUTION ADOPTING THE AMERICANS WITH
DISABILITIES ACT TRANSITION PLAN: PEDESTRIAN
FACILITIES IN THE PUBLIC RIGHT-OF-WAY**



ATTACHMENT C

1. Report for American AWA Council of the 1990
2. Resolution Amending the Code of Ethics
3. AWA Resource Program
4. Resolution Amending the American Water Works Association of the 1990s
5. Resolution of the American Water Works Association of the 1990s



2012

AMERICANS WITH DISABILITIES ACT TRANSITION PLAN:
PEDESTRIAN FACILITIES IN THE PUBLIC RIGHT-OF-WAY



ATTACHMENT D

1. PUBLIC COMMENT AND RESPONSE FORM



ATTACHMENT D

1. PUBLIC TOILETS AND RESTROOMS



PUBLIC COMMENT AND RESPONSE FORM

Date of Comment: _____

Name of Person: _____

Comment: _____

Response: _____



1911

Chair of Comparative

Chair of Zoology

Chair of Botany

Chair of Physics