Cumberland Town Council

Ordinance 2019-10

Building Permit Conflict of Interest Policy

Whereas, Section 00-15-150 of the Town of Cumberland Code of Ordinances states the rules and procedures for the review, inspection, and issuance of a building permits; and

Whereas, the Indiana Legislature passed Senate Enrolled Act 142 ("SEA 142") requiring municipalities to establish a procedure to address a conflict of interest that prevents a building commissioner, building code official, or inspector from issuing a building permit; and

Whereas, the Cumberland Town Council finds that it is in the best interest of the Town to comply with SEA 142.

Therefore, it is ordained that Section 00-15-150-10 of the Cumberland Town Code shall be amended and the amended section shall read in accordance with Exhibit A.

It is further ordained that this ordinance shall become effective upon adoption.

It is further ordained that any other provision of the Town Code which is not specifically amended by this ordinance shall remain in full force and effect.

Ordained this 19th day of June, 2019
Cumberland Town Council:

Joe Siefker, President
Anna Pea, Vice President

Nicole Bell, Member
Aaron Cutshaw, Member
Brian Gritter, Member

Attest:

Erica Salmon, Clerk-Treasurer
§00-15-150-10 Review of Application

“..."

(B) Conflicts of Interest

(1) Definitions: The following definitions apply to this subsection:

a. Conflict of Interest: A “conflict of interest” means a direct or indirect financial interest in the issuance or denial of issuance of a permit; and

b. Permit: A permit means any of the following:
   i. An improvement location permit;
   ii. A building permit;
   iii. A certificate of occupancy;
   iv. Approval of a site-specific development plan;
   v. Approval of a primary or secondary plat;
   vi. Approval of a contingent use, conditional use, special exception or special use; or
   vii. Approval of a planned unit development.

c. Building Commissioner, Building Code Official, or Building Inspector: An employee of the Town of Cumberland acting in this capacity or any person, entity, or third party retained or hired by the Town of Cumberland to perform the functions of a Building Commissioner, Building Code Official, or Building Inspector.

(2) Conflict of Interest Prohibited: The Building Commissioner, Building Code Official, or Building Inspector is prohibited from issuing a building permit or oversee the issuance of a permit if the Building Commissioner, Building Code Official, or Building Inspector possesses a conflict of interest.

(3) Notice to Department Head: If the Building Commissioner, Building Code Official, or Building Inspector has a conflict of interest in the issuance of a permit, he or she must report the conflict, in writing, to his or her Department Head immediately upon learning of the conflict. The Department Head must place this notice in the permit applicant’s file. For purposes of this section, the Planning Director shall be deemed the “Department Head” for a Building Commissioner, Building Code Official, or Building Inspector that is
a person, entity or other third party retained or hired by the Town of Cumberland.

(4) Disqualification: If the Building Commissioner, building code official or building inspector has a conflict of interest with regard to a permit, he or she is disqualified from reviewing, participating in review discussions, making decisions, or otherwise being involved in the permit process for that particular permit.

(5) Appointment of a Qualified Temporary Replacement: The Department Head must then appoint a qualified temporary replacement Building Commissioner, Building Code Official, or Building Inspector. This appointment may be any qualified individual of the Building Department. If no Town employee is qualified to be the temporary replacement, the Department Head may contract a qualified independent contractor to oversee the issuance or denial of a permit. Any appointment made or contract entered into under this policy must be with an individual who does not possess a conflict of interest in the issuance of the permit in question. The Department Head shall follow all Town policies when contracting a qualified temporary replacement.

(6) Exclusion of Disqualified Official: The Department Head must ensure that all documents, records, and communications regarding the issuance of the permit are removed from the possession of the Building Commissioner, Building Code Official, or Building Inspector who possesses a conflict of interest. The Department Head shall also ensure that the employee is excluded from any internal meetings, deliberation, or communication regarding the issuance of the permit.

(7) Document Retention: The Department Head must retain all documents regarding the conflict of interest in the permit file and the official’s personnel file for a period of ten years.

(8) Penalties: Failure of a Building Commissioner, Building Code Official, or Building Inspector to notify the Department Head of a conflict of interest will subject the employee to discipline. This discipline may include suspension without pay and/or termination.