Cumberland Town Council
Ordinance 2016 – 27

Ordinance Amending Section 1.03 of the Employee Handbook to Include a Criminal History and Background Check of Applicants.

Whereas, the Town of Cumberland, Indiana has adopted an Employee Handbook; and

Whereas, The Town of Cumberland Employee Handbook, section 1.03, details the hiring policy and procedure of the Town; and

Whereas, from time to time, the Town Council amends the hiring policy and procedure to ensure the Town hires only qualified applicants; and

Whereas, The Town Council believes it is the best interest of the Town, and its citizens, to adopt a criminal history and background investigation policy, as well as a credit investigation policy when considering the hiring of new applicants; and

Whereas, any pre-employment information that is required by this policy will be used in compliance with all applicable federal, state, and local laws.

Therefore it is ordained that the Town of Cumberland Employee Handbook, section 1.03, is amended and it shall read as follows:

“1.03.1 New Hires: The Town of Cumberland is committed to hiring only qualified applicants. Qualifications considered include education, training, experience, ability and skills. All hiring is conducted in accordance with the Town’s commitment to equal employment opportunity and in compliance with the Americans with Disabilities Act.

1.03.1.1 Preliminary Hiring Procedure: To be considered for employment with the Town, all applicants must:

1.03.1.1.1 Complete a Town application for employment;
1.03.1.1.2 Provide proof of a valid Indiana Driver’s License;
1.03.1.1.3 Complete a Nepotism Affidavit;
1.03.1.1.4 Complete all tests and other screening procedures relevant to the position. These screenings may include fingerprinting, testing, background investigation, driver’s license check;
1.03.1.5 Pass a physical examination for Town positions requiring certain physical abilities.

1.03.1.2 Conditional Offer Procedure: If, after an applicant employee completes the preliminary hiring procedure and receives a conditional offer of employment, the applicant employee must:
   1.03.1.2.1 Provide proof of U.S. citizenship or evidence of the right to work in the U.S.;
   1.03.1.2.2 Complete Employment Eligibility Verification Form, I-9;
   1.03.1.2.3 Complete a criminal background consent form and authorize such background check to be completed by the Town; and
   1.03.1.2.4 If appropriate, authorize a credit investigation.

1.03.1.3. Criminal Background Investigation Policy: In conducting criminal background investigations during the conditional offer procedure, Cumberland will comply with all federal and state regulation of such investigations. Because Cumberland believes that hiring qualified individuals is a priority and that a safe and productive work environment is important, these investigations are necessary. In conducting these investigations, Cumberland will follow the procedure below:
   1.03.1.3.1 Prohibitions: Cumberland will not ask applicants whether they have criminal histories that are restricted or sealed;
   1.03.1.3.2 Expunged Records: Cumberland will not ask applicants whether they have criminal histories that have been expunged;
   1.03.1.3.3 Nondiscrimination: Cumberland will investigate all applicants receiving conditional offers, and Cumberland will not discriminate against applicants in the administration of these investigations;
   1.03.1.3.4 Infractions: Cumberland will not require disclosure of or consider adverse judgments for infractions if (a) a judgment against the applicant has been satisfied and at least five years have passed since the satisfaction of the judgment, (b) the applicant was not prosecuted for the infraction charged, (c) the applicant was found not to have committed the infraction, or (d) the applicant was found to have committed the infraction but the judgment was subsequently vacated.
   1.03.1.3.5 Level 6 Felonies Treated as Misdemeanors: Cumberland will not require applicants to disclose nor will it consider convictions of Level 6 Felonies (previously which was generally equivalent to a “Class D Felony” prior to July 2014) which were given Misdemeanor treatment by a court.
   1.03.1.3.6 Evaluation of Criminal Histories: In considering information obtained from these investigations, a conviction will not automatically preclude the
employment of the applicant. Rather, Cumberland will consider all relevant factors regarding the convictions, including but not limited to the type of offense, the seriousness of the offense, how much time has passed since the conviction, the nature of the job applied for and how much supervision the applicant will have and how much interaction the applicant will have with members of the public and co-workers;

1.03.1.3.7 Right to Request Review: If the applicant is notified that his or her conditional offer of employment is withdrawn because of this investigation, the applicant is entitled to a copy of the information considered by Cumberland in making this decision and is entitled to request that Cumberland reconsider its decision if the applicant believes either that the information contains incorrect information or was improperly considered by Cumberland in violation of this policy, federal law, or Indiana law. The applicant must request a review within seven days of receiving notice of the withdrawal of the conditional offer.

1.03.1.4 Credit Investigations: For certain positions which involve financial accounting, handling financial transactions, or security concerns, Cumberland may require credit investigations. In conducting these investigations, Cumberland will follow the procedure below:

1.03.1.4.1 Nondiscrimination: Cumberland will require all applicants for positions which involve financial accounting, handling financial transactions or security concerns to authorize credit investigations, and Cumberland will not discriminate against applicants in the consideration of this information;

1.03.1.4.2 Consent: Cumberland will obtain consents for credit investigations from applicants prior to conducting its investigations.

1.03.1.4.3 Copies and Notice of Rights: Cumberland will provide to all applicants authorizing credit investigations copies of documents obtained in the investigation and a notice of the applicants rights under the Fair Credit Reporting Act. Cumberland will also provide to the applicant the name, address, and telephone numbers of any provider of information;

1.03.1.4.4 Evaluation of Credit Histories: If the applicant’s credit history causes Cumberland to withdraw its conditional offer of employment, Cumberland will provide to the applicant of this decision in writing. The applicant is entitled to request that Cumberland reconsider its decision if the applicant believes either that the information contains incorrect information or was improperly considered by Cumberland in violation of this policy, federal law, or Indiana law. The applicant must request this review within seven days of receiving notice of the withdrawal of the conditional offer.

1.03.2 Rehires – Former employees who seek reemployment with the Town must apply and be processed as any other applicant. Applicants who are reemployed within 30
days of separation retain their original rate of employment and are credited with previously unpaid accrued benefits. Applicants previously discharged from Town employment WILL NOT be considered for reemployment for one year from date of termination.

1.03.3 Police Officer Hiring – The hiring of police officers is governed by Indiana Law and the Police Department has its own rules for the hiring of Police Officers.”

It is further ordained that this policy shall take effective upon adoption.

It is further ordained that any other provision of the Employee Handbook not specifically amended by this policy shall remain in full force and effect.

Adopted this 7th day of December, 2016

Cumberland Town Council:

Joe Siefker, President

Anna Pea, Vice President

Nicole Bell, Member

Brian Gritter, Member

Mark Reynold, Member
Attest:

Erica Salmon, Clerk-Treasurer