CUMBERLAND TOWN COUNCIL

ORDINANCE NO. 2017-14

AN ORDINANCE OF THE TOWN OF CUMBERLAND AMENDING THE WATER CODE
AND ADOPTING INSPECTION FEES FOR WATER SERVICES

WHEREAS, various sections of the Water Code, including but not limited to §00-05-53-002, §00-05-53-003, and §00-05-53-004, provide for inspections of water facilities and connections to the Utility’s system; and

WHEREAS, the Cumberland Subdivision Control Ordinance contains provisions for inspection fees for water facilities within the Town’s zoning jurisdiction; and

WHEREAS, because the Cumberland Subdivision Control Ordinance does not apply to users of the GEM Water Utility, the Water Code should be amended to provide for these fees and the Utility Fee Schedule should be amended in order to provide for inspection fees; and

WHEREAS, if inspection fees are not charged to the users in the GEM Water Utility, all ratepayers inappropriately subsidize the users making connections, modifying existing connections, or otherwise causing the Utility to incur costs for the service provided; and

WHEREAS, the Cumberland Town Council now finds it is in the best interests of the Water Utility and the users that the Water Code be amended to provide for inspection fees and that the Water Fee Schedule be amended to provide for inspection fees for all users

IT IS, THEREFORE, ORDAINED that the Water Code is hereby amended by adding a new section, Section 00-05-53-005, and making other changes to the Code, which reads as follows:
“CHAPTER 53: WATER UTILITY

Section

00-05-53-001 Authority & Water Board
00-05-53-002 Waterworks System
00-05-53-003 Rates and Charges
00-05-53-004 Cross Connection Control and Backflow Prevention Policies
00-05-53-005 Inspection Fees

§ 00-05-53-001 AUTHORITY & WATER BOARD

(A) The Town may regulate the furnishing of water to the public. The Town may also establish, maintain and operate a waterworks system. The Town may also contract with private or public water service providers for the provision of water to its residents.

(B) There is established a water utility which shall be known as the Cumberland Water Utility (the Utility). The Utility may provide water service in the Town’s corporate boundaries, in the GEM water service territory, and at any location as authorized by Indiana law.

(C) The Members of the Town Council shall comprise the Cumberland Water Board. The Board shall administer, operate and maintain the Water Utility.

§ 00-05-53-002 WATERWORKS SYSTEM

(A) The Utility shall construct, operate and maintain the waterworks system.

(B) The Utility may also extend its mains as it, in its discretion, determines is in the best interest of the Utility. Customers affected by the extension of the mains shall be responsible for the pro rata share and the main extension surcharges for service extensions.

(C) The Utility may enter into contracts with individuals or corporations for the extension of lines and services of the Utility. The contracts shall provide for the person deserving such extensions to pay for all of the cost of the extension and to construct such consistent with the specifications of the Utility. After such construction said persons desiring to tap into the water line shall be regulated and governed in the use of the lines and water therefrom. The contract shall further provide that any easements necessary for construction of the lines shall be made in the name of the Town and for the benefit of the Town and that the lines shall become the property of the Town. All such contract will provide for inspections of the site and work to be performed and for inspections fees as provided in the Utility Fee Schedule.

§ 00-05-53-003 RATES AND CHARGES

(A) The Cumberland Water Board shall determine all rates and charges for the provision of water service, connection fees, minimum charges, fire protection charges, tapping fees, inspection fees, and other fees. These rates and charges shall produce sufficient revenue to pay
all legal and other necessary expenses incident to the operation of the Utility, provide a sinking fund for the liquidation of bonds or other obligations, including leases, provide a debt service reserve for bonds or other obligations, including leases, in an amount established by the Board, not to exceed the maximum annual debt service on the bonds or obligations or maximum annual lease rentals, provide adequate money for working capital, provide adequate money for making extensions and replacements to the extent not provided for through depreciation, and provide money for the payment of any taxes that may be assessed against the Utility.

(B) Current rates and charge are found in the Utility Fee Schedule.

(C) All terms of service for GEM customers shall be governed by an account agreement executed by users at the time of the commencement of service. The Water Board may alter, amend or modify the terms of these agreements.

(D) The Town shall mail the water bill to the address provided by the customer. Mailing of the bill to the provided address shall constitute notice to the customer of the bill and its terms.

(E) Water service shall be disconnected as prescribed by 170 IAC 6-1-16, from those water customers who fail to pay the accrued fees within 60 days of billing. The service shall not be reconnected until all fees are paid, including the reconnect fee, late fees, attorney’s fees and other charges.

(F) Submission of any delinquent account to an attorney for collection shall entitle the Water Board to collect and recover reasonable attorney’s fees and court costs incurred by the Board.

§00-05-53-004 CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION POLICIES

(A) **DEFINITIONS:** The following definitions apply to this section:

1. **Backflow:** the flow of any foreign liquid, gas or other substance into the distributing pipelines of a potable supply of water from any source or sources other than the intended one.

2. **Backsiphonage:** the backing up, or siphoning, of a foreign liquid, gas or other substance into a potable water system which occurs when the atmospheric pressure in the potable system is less than the atmospheric pressure on the foreign liquid, gas or other substance, creating a partial vacuum toward the potable system.

3. **Cross Connection:** any physical arrangement whereby a public water supply distribution system is connected, directly or indirectly, either continuously or intermittently, with any secondary source of supply, sewer drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains any water, contaminated liquid, or other waste of unknown or unsafe quality that could impart a contaminant to the drinking water as a result of backflow caused by backpressure or backsiphonage.

(B) **PROHIBITIONS:** In order to protect the public water supply system from cross connections:
(1) **Installation**: No installation of public water supply piping or part thereof will be made in such a manner that it is possible for used, unclean, polluted or contaminated water, mixtures or substances to enter any portion of such piping from any tank, receptacle, equipment or plumbing fixture by reason of backsiphonage or any other cause, either during normal use and operation thereof or when any such tank, receptacle, equipment or plumbing fixture is flooded or subject to pressure in excess of the pressure in the hot-or-cold water piping.

(2) **Cross Connections**: No person shall make a connection or allow one to exist between pipes or conduits carrying domestic water supplied by any public or private water supply service system, and any pipes, conduits or fixtures containing or carrying water from any other source or containing or carrying water which has been used for any purpose whatsoever, or any piping carrying chemicals, liquids, gases, or any substance, unless there is provided an approved backflow prevention device and unless the connection has been approved and permitted by the GEM Water Utility.

(3) **Devices**: No plumbing fixtures, device or construction will be installed or maintained or connected to any domestic water supply when such installation or connection may provide a cross connection between a distribution system of water for drinking and domestic purposes and water that may become contaminated by such plumbing fixture devices or construction unless there is provided a backflow prevention device which has been approved by the Commissioner of the Indiana Department of Environmental Management.

(C) **CROSS CONNECTION CONTROL**: In order to ensure proper precautions are taken, GEM Water Utility will perform the following:

(1) **Regulation**: The Utility will exercise reasonable vigilance to ensure that customers take proper steps to protect the public water system and will adopt rules and procedures to enforce this protection.

(2) **Customer Installation**: When the Utility determines that a backflow assembly is required, it will require the customer, as a condition of the provision of water, to install an approved backflow prevention device which is appropriate to the degree of the backflow hazard.

(3) **Customer Expense**: If the Utility determines that a backflow assembly is required for a customer, the customer is responsible for the expense of the device, installation of the device, all required testing, proper repair and maintenance of the assembly, inspection fees, and maintenance of adequate records of devices installed, testing, and repairs and maintenance. The customer will make these records available for inspection by the Utility upon request.

(4) **List of Customers with Backflow Devices**: The Utility will maintain a list of customers requiring backflow devices along with the type and location of each device.

(5) **Testing Records**: The Utility will obtain from each customer requiring backflow devices copies of all test reports and will maintain the three (3) most recent reports for review and inspection by IDEM.

(6) **Inspection**: The Utility and its agents have the right to enter upon the property of customers in order to perform inspections and investigations of backflow devices and existing conditions or hazards prior to, during and after installation of the devices in order to ensure compliance with this policy. The customer must pay for all inspections as provided in the Utility Fee Schedule.
(D) **COMPLIANCE WITH IDEM RULES**: All customers of the Utility and persons performing work for the customers are required to comply with the Indiana Department of Environmental Management’s Cross Connection and Backflow Prevention rules and regulations, including but not limited to the provisions of Rule 10, as modified from time-to-time, all applicable provisions of the Indiana Plumbing Code, Indiana and federal law. When the IDEM rules conflict with the Indiana Plumbing Code, the customer and persons performing work for the customer must comply with IDEM’s rules.

(E) **MANUFACTURER’S SPECIFICATIONS**: All installations of backflow devices must be in accordance with manufacturer’s specifications.

(F) **TAMPERING WITH INSPECTION TAGS**: No person will tamper with, alter, modify or destroy an inspection tag placed by a backflow inspector on a device that has been tested.

(G) **PIPE COLOR CODING**: All water pipes in a building or industrial plant must be color coded and identified adequately by legends based on the Recommended Standards for Water Works: 2012 Edition or the American Standards Association Scheme For Identification of Piping Systems (ASA A13.1-1956).

(H) **FIRE PROTECTION SYSTEMS**: Fire Protection Systems (FPS) must comply with the rules of the Fire Prevention and Building Safety Commission.

(I) **RECOMMENDED DEVICES**: A list of recommended types of backflow protection devices may be found in Appendix D of the IDEM Cross Connection Control and Backflow Prevention Manual

(J) **PERMITS**: No person will make a cross connection or allow one to exist, as defined by this section, until the person has applied for and obtained a permit for the same and provided for an approved backflow prevention device, as follows:

   (1) **Application**: Permit applications must be submitted to the Utility prior to construction or installation of a backflow prevention device.

   (2) **Permit Fees**: Applicants must tender to the Utility the applicable fee (see Fee Schedule) at the time of submission of the application.

   (3) **Incomplete Information**: If the application is incomplete, as determined by the Utility, the Utility will notify the applicant in writing within 10 days of the submission of the application.

   (4) **Permit Denial**: If the permit application does not comply with the rules and regulations of the Utility, the Utility may deny the application. The Utility will provide to the applicant within 30 days of the receipt of an application with complete information a written denial which states the reasoning.

   (5) **Permit Issued**: If the permit application complies with the rules and regulations of the Utility, the Utility will issue to the applicant a permit for the installation of the device.

   (6) **Permit Term**: Each permit will have a term of one (1) year from the date of issuance.

   (7) **Renewal of Permit**: The holder of a permit must apply for a renewal of a permit issued by the Utility at least 30 days prior to the expiration of the existing permit and tender to the Utility the renewal fee required by the Fee Schedule. The Utility will either grant or deny the renewal within 30 days of receipt of a complete application.
(8) Inspections: Upon receipt of an application for a permit or renewal of an existing permit, the Utility will conduct any and all inspections necessary to render the decision. The applicant will be required to pay for these inspections, and the costs of inspection must be paid prior to the issuance or renewal of the permit.

(9) No Modifications: After the issuance of a permit or renewal of an existing permit, no person will remove, alter or modify the backflow device or water system. If a permit holder removes, alters, or modifies a device or system, the holder’s permit will be revoked.

(10) Appeals: If an applicant or permit holder is dissatisfied with a decision of the Utility, the applicant or holder may appeal the decision to the Cumberland Water Board by submitting to the Board Secretary within 30 days of the decision a written appeal which states the reasons why the applicant or holder believes the decision is incorrect.

(11) Hearing on Appeals: Within 30 days of the filing of a timely appeal, the Cumberland Water Board will conduct a hearing on the appeal. The applicant or holder must attend the hearing and has the right to present evidence in support of the appeal and to cross exam witnesses called by the Utility to support its decision.

(12) Findings by Water Board: Within 10 days of the appeal hearing, the Water Board will issue written findings and conclusions of its decision on the appeal.

(13) Appeal of the Water Board Decision: If the applicant or holder believes the decision of the Board is in error, the applicant or holder may appeal the Board’s decision by filing an appeal, within 30 days of the decision by the Board, with a court of competent jurisdiction.

(K) ENFORCEMENT: The Utility will issue a Notice of Violation to any person it determines has or is violating any provisions of this section. This Notice will state the nature of the violation, the action to be taken to correct the violation, the time during which the corrective action must be taken, and the fines, penalties and remedies available to the Utility if the violation is not corrected. If the violation is not corrected as provided for in the Notice, the Utility may exercise the following remedies, either separately or jointly:

(1) Fines: The violator will be subject to a fine in the amount of $500 per day for each day, beginning when the time for correction ends, until the violation is corrected.

(2) Injunction: The Utility is entitled to obtain from a court of competent jurisdiction an order enjoining the violation from the continued violation of this section.

(3) Attorney’s Fees: The Utility is entitled to collect from the violator any and all reasonable attorney’s fees it incurs in the prosecution of any enforcement action.

(4) Money Judgment: The Utility is entitled to obtain from a court of competent jurisdiction a money judgment equal to fines and attorney’s fees, as provided in this section.

(5) Remediation: The Utility is entitled to obtain from a court of competent jurisdiction an order allowing the Utility to:

   (i) enter upon the property of the violator in order to remediate the violation; and,

   (ii) obtain a money judgment against the violator for the expense incurred by the Utility in remediating the violation.

(6) Damages Suffered by Utility: The Utility is entitled to obtain from a court of competent jurisdiction a money judgment for any damages to its water supply, including
but not limited to the cost of decontamination, inspection, testing, provisions of alternate water supply, and other damages, and for damages to its fixture, equipment and property caused by the violation of this section.

(7) **Disconnection from System**: The Utility is entitled to disconnect the violator’s water system from the Utility’s water system, without further notice if the violation is a danger to public health.

(8) **Other Remedies**: The Utility is entitled to all other remedies provided for by Indiana law for a violation of this section.

(Ord. 2016-15, passed 8-17-16)

§00-05-53-005 **INSPECTIONS AND FEES**

The Utility will charge an inspection fee, as provided for in the Utility Fee Schedule, for any inspection required by this Chapter or any inspection deemed necessary by the Utility Director."

IT IS FURTHER ORDAINED that the Utility Fee Schedule is hereby amended as follows:

### Utility Fee Schedule

#### APPLICATION & REVIEW

**Sanitary Sewer (Chapter 50 of the Town Code)**

<table>
<thead>
<tr>
<th>Application &amp; Review Fees</th>
<th>Engineering/ (Wessler)</th>
<th>Administrative Fee*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Review</td>
<td>$400 for first 3 hours then $105/hour after</td>
<td>$150</td>
</tr>
<tr>
<td>Construction Inspection Fee</td>
<td></td>
<td>$50/EDU</td>
</tr>
<tr>
<td>Lift Station Plan Review</td>
<td>$400 for first 3 hours then $135/hour after</td>
<td>$150</td>
</tr>
<tr>
<td>Lift Station Inspection Fee</td>
<td></td>
<td>NA</td>
</tr>
<tr>
<td>Re-Review</td>
<td></td>
<td>$50/hour</td>
</tr>
<tr>
<td>Cross Connection application fee</td>
<td></td>
<td>$40</td>
</tr>
<tr>
<td>Cross Connection annual renewal</td>
<td></td>
<td>$20</td>
</tr>
<tr>
<td>Inspection Fee</td>
<td></td>
<td>$50</td>
</tr>
</tbody>
</table>
(Ord. 2016-16, passed 8-17-16; Ord. 2017-14; Adopted 7-17-17)

IT IS FURTHER ORDAINED that this ordinance will be effective upon adoption.

Adopted this _____ day of July, 2017.

---

### Storm Water (Chapter 51 of the Town Code)

<table>
<thead>
<tr>
<th>Application &amp; Review Fees</th>
<th>Engineering/ (CrossRoads)</th>
<th>Administrative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Review (Drainage, SWPPP, Erosion Control)*</td>
<td>$1,100 (see Plan Commission Fee Schedule for what this covers)</td>
<td>$50</td>
</tr>
<tr>
<td>Post Construction SWPPP</td>
<td>$350</td>
<td>$50</td>
</tr>
<tr>
<td>Permit Fee</td>
<td>NA</td>
<td>$50</td>
</tr>
<tr>
<td>Erosion Control Inspection</td>
<td></td>
<td>$50/inspection</td>
</tr>
<tr>
<td>Inspection Fees</td>
<td>$120/hr + $0.50/mile</td>
<td>$50/per inspection</td>
</tr>
<tr>
<td>NOI</td>
<td>NA</td>
<td>$50</td>
</tr>
<tr>
<td>Appeals to the Storm Water Utility Board</td>
<td>$350</td>
<td>$200</td>
</tr>
</tbody>
</table>

### Water (Chapter 53 of the Town Code)

<table>
<thead>
<tr>
<th>Application &amp; Review Fees</th>
<th>Engineering/ (Wessler)</th>
<th>Administrative Fee*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan Review</td>
<td>$400 for first 3 hours then $105/hour after</td>
<td>$150</td>
</tr>
<tr>
<td>Construction Inspection Fee</td>
<td></td>
<td>$50/EDU</td>
</tr>
<tr>
<td>Booster Station Plan Review</td>
<td>$400 for first 3 hours then $135/hour after</td>
<td>$150</td>
</tr>
<tr>
<td>Booster Station Inspection Fee</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Re-Review</td>
<td></td>
<td>$50/hour</td>
</tr>
<tr>
<td>Cross connection application fee</td>
<td></td>
<td>$40</td>
</tr>
<tr>
<td>Cross connection annual renewal</td>
<td></td>
<td>$20</td>
</tr>
<tr>
<td>Inspection Fee</td>
<td></td>
<td>$50</td>
</tr>
</tbody>
</table>

*in the absence of a petition on file with the Plan Commission that includes this review
A Majority of the Cumberland Town Council

Anna Pea, President

Joe Siefker, Vice President

Nicole Bell, Council Member

Brian Gritter, Council Member

Aaron Cutshaw, Council Member

ATTEST:

Erica Salmon, Clerk·Treasurer
Town of Cumberland