Cumberland Town Council

Ordinance 2017 – 04

ESTABLISHING A POLICY FOR ACCESS TO PUBLIC RECORDS ACT
REQUESTS FOR COMMERCIAL PURPOSES

Whereas, the Town of Cumberland makes every effort to comply with the Indiana Access To Public Records Act and believes that providing persons with full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees is an essential function of a representative governments; and

Whereas, the Town of Cumberland receives several public record requests from businesses that intend to use public records from the Town’s electronic data storage systems for commercials purposes; and

Whereas, in order to appropriately respond to a business’s request for public records, contained in the Town’s electronic data storage systems, to be used for commercial purposes, the Town commits considerable time, resources, and taxpayer money; and

Whereas, Indiana law allows all political subdivisions and the State of Indiana to prescribe the conditions under which a person or entity who receives public records from electronic data storage systems may use such records; and

Whereas, Indiana Code §5-14-3-3(e) specifically allows the Town of Cumberland to prohibit the use of public records, requested under Indiana Code §5-14-3-3(d), for commercial purposes. These purposes include selling, advertising, or soliciting the purchase of merchandise, goods, or services, as well as loan, give away, or otherwise deliver the information obtained to any other person or entity for commercial purposes; and
Whereas, the prohibition allowed under Indiana Code §5-14-3-3(e) does not apply to the use of such records in connection with the preparation of news, the use for nonprofit activities, or for academic research; and

Whereas, Indiana Code §5-14-3-3(e) also provides that a person using public records, requested under Indiana Code §5-14-3-3(d), in a manner contrary a policy which prohibits commercial use, may be prohibited from obtaining a copy of public records or further data from the political subdivision; and

Whereas, because the provision of public records for commercial purposes is not an essential function of a representative government, and because such provision unnecessarily exhausts public resources for the benefit of for-profit businesses, the Cumberland Town Councils finds that the Town should prohibit the use of public records, requested under Indiana Code §5-14-3-3(d), for commercial purposes, as defined in Indiana Code §5-14-3-3, and that persons or entities using such public records in a manner contrary to this policy should be prohibited from obtaining further copies of public records or data under Indiana Code §5-14-3-3(d).

Therefore, it is ordained that a new section, Section 00-03-32-80, is hereby added to the Cumberland Code of Ordinances establishing a policy which prohibits the use of Town public records and data, requested under Indiana Code 5-14-3-3(d), for commercial purposes, and this section shall read as follows:

“§00-03-32-80 PROHIBITION ON USE OF PUBLIC RECORDS FOR COMMERCIAL PURPOSES

(A) Use Prohibition. Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity receiving public records or information, pursuant to a request made under Indiana Code §5-14-3-3(d), may not use the records or information for commercial purposes. For purposes of this section, the term ‘commercial purposes’ means using the record or information to sell, loan, give away or otherwise deliver the record for information obtained by a public records request to any other person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity for these purposes.
(B) Exemption. This prohibition does not apply to records or information used in connection with the preparation or publication of news, used for nonprofit activities, or used in academic research.

(C) Use in Violation of Prohibition: Any person, corporation, limited liability company, limited liability partnership, partnership, unincorporated association or other entity using the record or information in a manner contrary to the prohibition contained in this section is prohibited from obtaining further records and data under Indiana Code §5-14-3-3(d).”

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

It is further ordained that all other provisions of the Cumberland Code of Ordinances which are not specifically amended by this ordinance shall remain in full force and effect.

Adopted this 5th day of April, 2017.

Cumberland Town Council:

Anna Pea, President

Joe Seifker, Vice-President

Brian Gritter, Member

Nicole Bell, Member

Mark Reynold, Member

Attest:

Erica Salmon, Clerk-Treasurer