Town Council of Cumberland, Indiana

ORDINANCE NO. 2015-18

AN ORDINANCE ABOLISHING THE POLICE MARSHAL SYSTEM AND
ESTABLISHING THE CUMBERLAND BOARD OF METROPOLITAN
POLICE COMMISSIONERS

WHEREAS, the Town of Cumberland police department currently operates
under a town marshal system, as provided in Indiana Code §36-5-7 and as included as
Title III, Chapter 33, in the Cumberland Town Code;

AND WHEREAS, I.C. §36-8-9-2 authorizes the Town Council, by ordinance, to
abolish the office of town marshal and to establish a board of metropolitan police
commissioners to govern the operation, management, and control of the police
department;

AND WHEREAS, the Town’s Marshal has requested that the Town Council
authorize qualifying Police Department members to participate in the 1977 Police and
Firefighters Pension and Disability Fund and that the Town Council obligate itself to
make the required employer contributions to the Fund;

AND WHEREAS, the Town marshal believes that the increased benefits available
to officers who participate in the Fund will enhance the benefits offered to Police
Department members and improve the Town Marshal’s ability to recruit and retain
qualified law enforcement officers;

AND WHEREAS, the Town’s officers are not eligible to participate in the Fund
unless the Town abolishes the current Town Marshal system and establishes a board of
metropolitan police commissioners;

AND WHEREAS, the establishment of a board of metropolitan police
commissioners is advantageous because the responsibility for officer qualifications,

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officer discipline, and selection of the Chief of Police are transferred from elected 
officials to a police commission;

AND WHEREAS, the Council believes that replacing the marshal system with the 
board of police commissioners system would best serve the Town’s police department 
and its citizens.

NOW, THEREFORE, be it ordained by the Town Council of the Town of 
Cumberland, as follows:

1. That Title III, Chapter 33 of the Cumberland Town Code, which adopted the town 
marshal system and established the office of Town Marshal, is hereby REPEALED and is 
replaced with a Title III, Chapter 33, to read as follows:

"Chapter 33 Police Department
Section 00-03-33-01. Board of Metropolitan Police Commissioners 
Established.
There is hereby established a Board of Metropolitan Police Commissioners 
for the Town of Cumberland, Indiana, as provided in Indiana Code 36-8-9, 
and the office of Town Marshal is hereby abolished, effective January 1, 
2016.

Section 00-03-33-02. Board Membership.
A. The Board of Metropolitan Police Commissioners shall consist of 3 
members appointed by the Town Council. The members must be of good 
moral character and legal residents of the town. Not more than 2 members 
may be members of the same political party, if individuals who satisfy this 
requirement can be found to serve on the board with reasonable and 
diligent efforts. Neither members of the town’s police department nor 
members of the Town Council may be appointed to serve on the Board.

B. The Town Council may, by ordinance, increase the number of board 
members to 5, provided that the amended ordinance and the appointment 
of board members satisfy all the requirements of Indiana Code 36-8-9-
3.1(a) and all other applicable statutes.

Section 00-03-33-03. Term.
The board members' terms shall be 3 years, expiring on January 1 of the 
third year after the member’s appointment. However, to establish 
staggered terms, one initial member shall be appointed for a one-year 
term, one initial member shall be appointed for a two-year term, and one
initial member shall be appointed for a three-year term. Each member serves at the pleasure of the Town Council and may be removed by the Town Council for any cause that it considers sufficient.

Section 00-03-33-04. Powers and Duties.
A. As provided in I.C. §36-8-9-4, the Board shall have the following powers and duties:
   1. Appointment of Members. The Board shall appoint persons to serve in the town’s police department, subject to the qualifications for employment determined by the Board and approved by the Town Council.
   2. Appointment of Police Chief. The Board shall appoint one person to serve as the police chief.
   3. Appointment of civilian employees. The Board may appoint other employees that are necessary to carry on the work of the police department.
   4. Recommendations for Compensation. The Board may recommend and the Town Council shall determine the compensation to be paid to members of the police department.
   5. Safety Board. The Board constitutes the town’s safety board for purposes of the suspension, demotion, or dismissal of any member of the police department. Proceedings for the suspension, demotion, or dismissal of police department members shall be conducted in the manner prescribed by I.C. §36-8-3-4. The disciplinary provisions of I.C. §36-8-3-4.1 also apply to the safety board and the police chief.
   6. Adoption of Rules and Orders. The Board may make general and special rules for the government and discipline of the police department and may make special and general orders to the department through the police chief, who is the executive head of the department.

B. The Board shall have all other powers and duties as provided by Indiana law or town ordinances.

C. The Board shall adopt and maintain rules governing the conduct of its business, including but not limited to rules concerning its meetings, the selection and appointment of persons to be employed as members of the police department, promotions and demotions of department members, and the discipline or dismissal of department members.

Section 00-03-33-05. Oath and Bond.
Before performing any function of a board member, each person appointed to serve as a member shall:

A. Take and subscribe before the Clerk of the Marion County Circuit Court an oath or affirmation of office and an oath or affirmation that in each appointment or removal made by the Board to or from the town’s police
department, the member will not appoint or remove a member of the town police department because of the political affiliation of the person or for another cause or reason other than that of the person's fitness; and

B. Give bond in the penal sum of $5,000, payable to the state and conditioned upon the faithful and honest discharge of the member's duties. The bond must be approved by the Town Council.

Section 00-03-33-06. Salary.
The members' salaries shall be set by the Town Council.”

2. That Title III, Chapter 31, section 00-03-31-03 of the Cumberland Town Code, which currently reads:

§00-03-31-03 Town Marshal
(A) The Town Marshal shall be responsible for the performance by the Police Department of all police functions. All persons who are members of the Police Department shall serve subject to the orders of the Town Marshal.
(B) The Town Marshal shall have the disciplinary powers provided by statute.
(C) The Town Marshal shall keep records and make reports concerning the activity of the Police Department as may be required by the Town Council or by statute.

shall be amended to read:

“§00-03-31-03 Police Chief
(A) The Chief of the Town of Cumberland Police Department is the executive head of the police department. All members of the police department shall serve subject to the orders of the Police Chief.
(B) The Police Chief shall have the powers and duties prescribed by statute and town ordinance, including statutory disciplinary powers.
(C) The Police Chief shall keep records and make reports concerning the activity of the police department as may be required by the Town Council or by statute.”

3. That any other existing town ordinances, or any parts thereof, inconsistent with or superseded by these revisions to the Town Code are hereby repealed and of no effect.

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4. That this ordinance will be effective on January 1, 2016.

ALL OF WHICH IS ORDAINED BY THE TOWN COUNCIL OF CUMBERLAND, INDIANA, this 2 day of December, 2015.

A MAJORITY OF THE TOWN COUNCIL OF CUMBERLAND, INDIANA

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Joe Siefker, President

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Anna Pea, Vice President

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Nicole Bell, Council Member

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Brian Gritter, Council Member

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Mark Reynold, Council Member

ATTEST:

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Erica Salmon, Clerk-Treasurer