

Cumberland Town Council

Ordinance 2015 - 17

Ordinance Restating the Town of Cumberland's Policies Under
the Americans with Disabilities Act of 1990

Whereas, it is the policy of the Town of Cumberland, Indiana that it will not discriminate against person with disabilities in access to jobs, public accommodation, and government programs, public transportation and telecommunications; and

Whereas, it is the policy of the Town of Cumberland to comply with the Americans With Disabilities Act of 1990 (ADA); and

Whereas, the Town of Cumberland recognizes that it is important for its facilities, programs and services to be available to all of its citizens and to the general public; and

Whereas, the Town of Cumberland understands that some of its facilities, programs and services comply with the ADA and that some may not now, or may not in the future, comply with the ADA because the standards of compliance have or will be revised, changed and added; and

Whereas, in order to comply with the ADA, the Cumberland Town Council developed an ADA Transition Plan which now guides future planning and implementation of accessibility improvements; and

Whereas, the Town of Cumberland is committed to implementing the Transition Plan as soon as possible, administratively, physically and financially; and

Whereas, the Town of Cumberland will, as it works toward reducing accessibility barriers within Town-owned facilities, infrastructure, programming and services, be guided by public and/or employee requests and its initial or revised prioritization of the Transition Plan items; and

Whereas, the Town of Cumberland will strive to include annual budget appropriations to remove accessibility barriers such that its facilities, programs and services will be accessible as is reasonably possible; and

Whereas, to the extent the Town of Cumberland cannot provide access to its facilities, programs and services, it will provide alternate means for the same opportunities to persons with disabilities; and

Whereas, the Town of Cumberland has and will continue to disseminate sufficient information

to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by the ADA and the regulations promulgated thereunder; and

Whereas, the Town of Cumberland has designated Christine Owens as the ADA Coordinator, and she is responsible for the development and implementation of the ADA Transition Plan and for overall compliance with the ADA; and

Whereas, the Town of Cumberland has established procedures for requests for accommodation, issued annual reports regarding implementation of the Transition Plan, requests for reasonable accommodation and grievances, and adopted and implemented a grievance procedure, all as required by the ADA; and

Whereas, although the Town of Cumberland has prohibited the use of, and made additional requirements for, certain devices and vehicles in Section 00-07-70-37, Section 00-07-70-46, and other applicable provisions of the Town Code, the Town's policy should be clarified in order to exclude devices, including Other Power Driven Mobility Devices, that are used by individuals with disabilities from those prohibitions, and to specifically allow on Town roads and in Town-owned facilities such devices, including Other Power Driven Mobility Devices, that are used by individuals with disabilities; and

Whereas, in order to restate its policies under the ADA and to clarify its policy regarding the use of Other Power Driven Mobility Devices on Town roads and in Town facilities, a new section, Section 00-03-32-05, should be added to the Cumberland Code of Ordinances. This new section supersedes Section 00-07-70-37, Section 00-07-70-46, and other applicable provisions of the Town Code in regards to devices, including Other Power Driven Mobility Devices, that are used by individuals with disabilities.

It is, therefore, ordained that a new section, Section 00-03-32-05, is added to the Cumberland Code of Ordinances and that this section reads as follows:

"§ 00-03-32-05 AMERICANS WITH DISABILITIES ACT POLICY

(A) **Policy Against Discrimination:** It is the policy of the Town of Cumberland that it will not discriminate against persons with disabilities in access to jobs, public accommodations, and government programs, public transportation and telecommunications;

(B) **Intention To Comply with ADA:** It is the policy of the Town of Cumberland to comply

with the Americans With Disabilities Act of 1990 (ADA). If a policy of the Town and a provision of the ADA conflict, the ADA provision will be deemed to be the policy of the Town and will be enforceable as if specifically written in this policy;

(C) **Importance of Accessibility:** the Town of Cumberland recognizes that it is important for its facilities, programs and services to be available to all of its citizens and to the general public;

(D) **Transition Plan:** the Town of Cumberland understands that some of its facilities, programs and services comply with the ADA and that some may not now, or may not in the future, comply with the ADA because the standards of compliance have or will be revised, changed or added. In order to comply with the ADA, the Town Council has already developed an ADA Transition Plan which now guides future planning and implementation of accessibility improvements. The Town of Cumberland is committed to implementing the Transition Plan as soon as possible, administratively, physically and financially. The Town of Cumberland will, as it works toward reducing accessibility barriers within Town-owned facilities, infrastructure, programming and services, be guided by public and/or employee requests and its initial or revised prioritization of the Transition Plan items. The Town of Cumberland will strive to include annual budget appropriations to remove accessibility barriers such that its facilities, programs and services will be accessible as is reasonably possible.

(E) **Alternate Access:** To the extent the Town of Cumberland cannot provide access to its facilities, programs and services, it will provide alternate means for the same opportunities to persons with disabilities;

(F) **Notice of Rights:** The Town of Cumberland has and will continue to disseminate sufficient information to applicants, participants, beneficiaries, and other interested persons to inform them of their rights and protections afforded by the ADA and the regulations promulgated thereunder;

(G) **ADA Coordinator:** the Town of Cumberland has designated Christine Owens as the ADA Coordinator, and she is responsible for the development and implementation of the ADA Transition Plan and for overall compliance with the ADA;

(H) **Accommodation Requests and Grievance Procedures:** The Town of Cumberland has established procedures for requests for accommodation, issued annual reports regarding implementation of the Transition Plan, requests for reasonable accommodation and grievances, and adopted and implemented a grievance procedure, all as required by the ADA. The grievance procedure was established to meet the requirements of the Americans with Disabilities Act of 1990. It may be used by anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs or benefits by the *Town of Cumberland*.

(1) The complaint should be in writing and contain information about the alleged

discrimination such as name, address, phone number of complainant and location, date and description of the problem. Alternative complaints, such as personal interviews, or tape recordings of the complaint, will be made available for persons with disabilities upon request

(2) The complaint should be submitted by the grievant or his/her designee as soon as possible but no later than 60 calendar days after the alleged violation to:

Christine Owens
ADA Grievance Coordinator
Town of Cumberland, Town Hall
11501 E. Washington St.
Cumberland, IN 46229
(317) 894 - 6203
planner@town-cumberland.com

(3) Within 15 calendar days after receipt of the complaint, Christine Owens or her designee will meet with the complainant to discuss the complaint and the possible resolutions. Within 15 calendar days of the meeting, Christine Owens or her designee will respond in writing and where appropriate in a format accessible to the complainant. The response will explain the position of the *Town of Cumberland* and offer options for substantive resolution of the complaint.

(4) If the response of Christine Owens or her designee does not satisfactory resolve the issue, the complainant or his/her designee may appeal the decision within 15 calendar days after receipt of the response to the Cumberland Town Council.

(5) Within 15 calendar days after receipt of the appeal, the Cumberland Town Council will meet with the complainant to discuss the complaint and possible resolutions. Within 15 calendar days after that meeting, the Cumberland Town Council will respond in writing and where appropriate, in a format accessible to the complainant, with a final resolution of the complaint.

(6) All written complaints received by Christine Owens or her designee, appeals to the Cumberland Town Council and responses from these two offices will be retained by the *Town of Cumberland* for at least three years.

(I) **Other Power-Driven Mobility Devices:** It is the policy of the Town of Cumberland that Other Power-Driven Mobility Devices (OPDMD) are allowed on Town Roads and in Town-Owned Facilities to the same extent as members of the public are allowed.

(1) **Definition of OPDMD:** Other Power-Driven Mobility Device is any mobility device powered by battery, fuel or other engines that is used by an individual with a disability for the purpose of locomotion, including but not limited to golf cars, electric scooters, electronic

personal assistance mobility devices, such as Segway ®, or any mobility device designed to operate in areas without defined pedestrian routes.

(2) **OPDMDs Authorized:** OPDMDs are allowed in all areas where members of the public are allowed, unless a particular OPDMD cannot be accommodated because of legitimate safety requirements.

(3) **Alternate Accommodation:** If OPDMDs are not allowed in certain areas because of legitimate safety requirements, the Town of Cumberland will provide alternative service if possible.

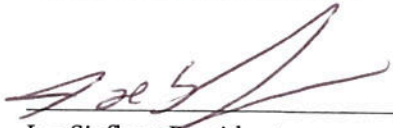
(4) **No Exclusion From Town Roads:** OPDMDs will not be excluded from Town Roads because of legitimate safety requirements or any other reason. Section 00-07-70-37, Section 00-07-70-46, and other applicable provisions of the Town Code will not be construed to exclude OPDMDs from Town roads."

It is further ordained that this Ordinance takes effect upon adoption.

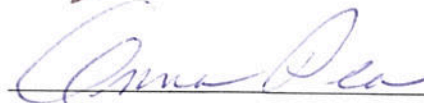
It is further ordained that the ADA Coordinator will disseminate this ordinance as she would a Notice of Rights under the ADA and will conduct training of Town employees in order to effectuate the policies contained in this ordinance.

Adopted this 2 day of December, 2015.

A MAJORITY OF THE TOWN COUNCIL OF
CUMBERLAND, INDIANA




Joe Siefker, President

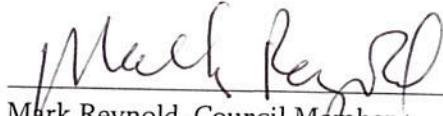


Anna Pea, Vice President

Nicole Bell, Council Member



Brian Gritter, Council Member



Mark Reynold, Council Member

ATTEST:

Erica Salmon, Clerk-Treasurer