

SECTION 2.
DEFINITIONS, INTERPRETATIONS, AND RULES OF CONSTRUCTION

2.01 RULES OF CONSTRUCTION

Unless otherwise expressly stated, the following words and phrases shall be construed throughout this Ordinance to have the meanings herein indicated:

- (1) Words used in the present tense include the future.
- (2) The singular includes the plural, and the plural, the singular, words of masculine gender will include the feminine and the neuter will refer to any gender as required, unless the context plainly indicates the contrary.
- (3) The word "person" includes a corporation, partnership (general, limited, limited liability), limited liability company, association, or individual.
- (4) The word "shall" is always mandatory and the word "may" is permissive.
- (5) The word "lot" includes the words "parcel," "tract," or "plot."
- (6) The words "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- (7) The word "City" means the City of Cumberland, Allegany County, Maryland; the terms "Council," "Zoning Board," and "Planning Commission" mean, respectively, the Mayor and City Council, the Zoning Board of Appeals, and the Municipal Planning and Zoning Commission of the City. Zoning Administrator, Department of Community Development, and Department of Community Development Staff shall be considered synonymous.
- (8) The particular will control the general.
- (9) A building or structure includes any part thereof.
- (10) The phrase used for includes arranged for, designed for, intended for, maintained for, or occupied for.

- (11) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two or more items, conditions, provisions, or events connected by the conjunction and, or, or either/or, the use of the conjunction is defined as follows:
- (a) And means that all the connected items, conditions, provisions and events apply together and not separately.
 - (b) Or means that the connected items, conditions, provisions, or events apply separately or in any combination.
 - (c) Either/or means that the connected items, conditions, provisions or events shall apply separately but not in combination.
- (12) When a term defined in the City Subdivision Regulations or the City Building Code occurs in this Ordinance, it has the meanings and definition specified in the Subdivision Regulations or Building Code, unless specifically defined in these Regulations.
- (13) Ordinance means the City of Cumberland Zoning Ordinance and all amendments and revisions thereto, unless the context clearly requires otherwise.
- (14) Throughout the Ordinance, all words, other than the terms specifically defined above and below, have the meaning inferred from their context in this Ordinance or the ordinarily accepted definitions as defined in the current edition of Webster's New Collegiate Dictionary.

2.02 INTERPRETATION OF TERMS AND CONDITIONS

- (1) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any lawfully adopted rules, regulations, ordinances, private deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern. This provision shall not enable or require the City to impose or administer private deed restrictions or covenants on properties.
- (2) The regulations set by this Ordinance shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided or as subsequently provided for in this Ordinance:
- (a) No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, internally or externally, unless in

conformity with the regulations herein specified for the district in which it is located.

- (b) Except as otherwise provided in this Ordinance, no building or other structure shall hereafter be erected or altered:
 - (i) to exceed the height;
 - (ii) to accommodate or house a greater number of families;
 - (iii) to occupy a greater percentage of lot area;
 - (iv) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this Ordinance.
- (c) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any buildings, for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, except as otherwise specified in this Ordinance.
- (d) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- (e) All territory which may hereafter be annexed to the City shall be zoned in the manner required by Article 66B of the Annotated Code of Maryland.

2.02.01 Zoning Administrator's Authority

The Zoning Administrator, or his/her duly authorized representative, is empowered by the Mayor and City Council with administering, enforcing, clarifying, and interpreting the Ordinance. Should there be questions on the meaning of a section or provision of the Ordinance, an "official interpretation" shall be prepared, approved and signed by the Zoning Administrator. Public notice of such official interpretation shall be once advertised in a newspaper of general circulation in the City and where applicable, the property to which the interpretation applies shall be posted with a public notice sign for a period of fifteen (15) days with a sign approved by the Zoning Administrator and containing a fair summary of the official interpretation.

2.02.02 Omitted/Hybrid Uses and Definitions

In the event a specific use is not identified as permitted or as a conditional use in any zoning district, the Zoning Administrator shall have the authority to review the proposed use and the applicant shall submit to the Zoning Administrator such additional information as the Zoning Administrator deems necessary to render an official interpretation under the Ordinance. In

reviewing the proposed use, the Zoning Administrator shall follow and apply the standards and criteria hereinafter set forth:

- (a) What are the land use characteristics and physical and environmental impacts associated with the proposed use?
- (b) Is the proposed use and its impacts primarily and principally Conservation, Residential, Business/Commercial or Industrial/Employment in nature and character as defined in Section 5 of the Ordinance?
- (c) Are the impacts and characteristics of the proposed use similar to the impacts and characteristics of permitted uses in one or more zoning districts?
- (d) If the proposed use is "hybrid" in nature (as defined in Section 2.03), are the impacts and characteristics more compatible with the permitted uses allowed in one or more zoning districts and not compatible in other zoning districts?
- (e) Is the proposed use more appropriately handled by an amendment to the Ordinance?

If in the judgement of the Zoning Administrator (subject to appeal to the Board of Appeals), after review of the proposed use against the above-described criteria, the proposed use is appropriately allowed in one or more zoning districts (either as a permitted or conditional use), then the Zoning Administrator may issue an "official interpretation" that allows the applicant to proceed with applying for such use in accordance with the Ordinance.

2.03 DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated:

- (1) Abandoned: To leave use with no intention of returning, to leave completely and finally, to remove principal elements of former use. Any use which lapses for a period of twenty-four (24) consecutive months shall be abandoned.
- (2) Accessory Building, Structure, or Use: A building, structure, or use customarily incidental and subordinate in size and magnitude of use to the principal building, structure, or use and located on the same lot with such building, structure, or use. Accessory buildings, structures, or uses include, but are not limited to, garden shed or barn, guesthouse, private playhouse, private greenhouse, private swimming pool, home garden, nursery or greenhouse, outdoor retail sales, home occupation, residential accessory structure or use (garage, shed), solar energy system, temporary structure or use, tennis court, windmill, antenna (including dish or tower) and the like.

- (3) Acre: 43,560 square feet.
- (4) Adjacent: A state of being side by side, next to, adjoining, contiguous, or abutting one to another.
- (5) Adult Entertainment Establishment: An establishment, including but not limited to any restaurant (eating and drinking establishment), lounge, dance hall, night club or other such place that features, at any time, live nude dancing or live sexual activity for entertainment purposes.
- (6) Adult Retail Establishment: Any retail establishment using more than 10% of sales floor space for the display, sale, or rent of materials (including books, periodicals, magazines, films, videotapes, CD-ROMs, DVDs, audio tapes, or other printed or pictorial material) whether for on-premise or off-premise viewing, that are intended to provide sexual stimulation or gratification, and characterized by their emphasis on nudity and sexual activity.
- (7) Agricultural, Horticultural, and Forestry Uses: The cultivation of soil and the raising and harvesting of products of the soil including horticulture, forestry, and the raising and keeping of livestock and field/truck crops.
- (8) Alley: A public thoroughfare having a right-of-way width of twenty (20) feet or less regardless of how named.
- (9) Alteration of Building: As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another, or conversion of one use to another by virtue of interior change.
- (10) Ambulatory Health Care Facility: A building used by health care professionals for the treatment and examination of patients, provided that no overnight patients shall be kept on the premises. Includes, but is not limited to the following:
 - (a) Health Maintenance Organizations;
 - (b) Out-patient Clinics;
 - (c) Diagnostic Centers;
 - (d) Ambulatory Surgical Facilities;
 - (e) Physicians, Dentists, and Opticians Offices;
 - (f) Public Health Clinics;
 - (g) Community Mental Health Centers; and
 - (h) Physical Rehabilitation Facilities;

- (11) Amusement Arcade: A business establishment offering for public use five (5) or more of any form of game machine, instrument or apparatus operated by coin, slug, token or similar medium, but not including automatic machines for vending food, soft drinks or tobacco and outside service vending machines.
- (12) Animal Hospital: See Veterinary Office/Hospital.
- (13) Assisted Living: Subject to Title 10 of the Annotated Code of Maryland.
- (14) Automatic Teller Machine (ATM): A self-operating bank machine powered by electricity but with no human operator, typically located in an enclosure at a permanent service location ancillary to other use(s), and providing for the deposit, transfer, and withdrawal of funds in connection with a credit, deposit, or convenience account.
- (15) Auto Impoundment Area: A site approved and properly protected for the temporary storage of vehicles involved in a wreck, or otherwise damaged, awaiting insurance clearance or as deemed necessary by the governing agencies.
- (16) Auto, Recreational Vehicle, or Boat Sales Area: An open area or lot used for the display, sale, or rental of new or used motor vehicles, recreation vehicles, or boats in operable condition, and where no major repair work is done.
- (17) Auto Repair Station: Buildings and land where gasoline and other automobile parts and supplies are sold at retail and where major auto repairs are conducted. (See also Major Auto Repairs.)
- (18) Auto Service Station: Buildings and land areas where gasoline, oil, grease, batteries, tires, or automobile accessories and commercial convenience items are supplied and dispensed at retail and where minor auto repairs are conducted. (See also Minor Auto Repairs.)
- (19) Auto Wrecking: The dismantling or disassembling of used motor vehicles or recreation vehicles, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete, or wrecked vehicles or their parts.
- (20) Basement: A story partly underground but having one-half (1/2) or more of its height (measured from floor to ceiling) above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement or determining square footage only if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5) feet, or is used for business or as a dwelling unit.
- (21) Bed and Breakfast Inn: A dwelling in which, for compensation, sleeping accommodations are provided to transient guests in not more than ten (10) guest rooms under management

and operation of the occupants of the dwelling. A bed and breakfast inn may include the provision of meals for overnight guests only.

- (22) Boarding House: A building containing a single dwelling unit where lodging is provided with or without meals for two (2) or more persons who are not members of the operator's family, and by prearrangement for definite periods of time and for compensation, whether direct or indirect, but not to include rest homes or homes for the aged.
- (23) Brewpub: A restaurant/microbrewery that sells the majority of the beer it produces on site. The beer shall be brewed primarily for sale and consumption in the adjacent restaurant and/or bar within the same structure.
- (24) Buffer Strip: Land which may be a part of the minimum setback distance and which is free of any principal or accessory building, parking, outdoor storage, or any use other than open space.
- (25) Building: Any structure having a roof supported by columns, piers, or walls including tents, lunch wagons, trailers, dining cars, camp cars, or other structures on wheels, or having other support and any unroofed platform, terrace, or porch having a vertical face higher than three (3) feet above the level of the ground from which the height of the building is measured.
- (26) Building Area: The aggregate of the floor areas of all enclosed and roofed spaces of the principal building and all accessory buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.
- (27) Building Coverage: The percentage of the lot area covered by the primary building.
- (28) Bulk Plant: That portion of a property where flammable or combustible liquids are received from bulk shipping systems, including tank vessels, pipe lines, tank cars, or tank vehicles, and are stored or blended for the purpose of distributing such liquids by bulk shipping systems, including tank vessels, pipe lines, tank cars, tank vehicles, or container, to retail or wholesale customers. This definition does not include auto service stations, auto repair stations, or auto repair garages and body shops.
- (29) Business Office: A business establishment which does not offer, on the premises, a product or merchandise for sale to the public but offers a service to the public. However, personal services such as barber and beauty shops and repair services are not to be included within the definition of business offices.
- (30) Car Wash: A building or portion thereof where automobiles are cleaned, using brushes, blowers, steam cleaning equipment, or other device.

- (31) Church: A building or group of buildings including customary accessory uses located adjacent to the primary structure. For the purpose of this Ordinance, the word "church" shall include chapels, cathedrals, temples, mosques, and similar designations, as well as parish houses, convents, and such accessory uses.
- (32) Club, Lodge, or Social Building: A building to house a club or social organization not conducted for private profit and which is not an adjunct to, or operated by or in connection with, a public tavern, cafe, or other public place.
- (33) Cluster Development: A residential development that permits variation in lot sizes in order to preserve open space and the natural features of the property.
- (34) Commercial Motor Vehicle: Any vehicle with a Gross Vehicular Weight greater than ten thousand (10,000) pounds and with a minimum width of eighty (80) inches and a maximum length of one hundred ninety-six (196) inches. Construction or other similar vehicles or equipment not designed and intended for passenger use or for on-the-road hauling shall be deemed commercial motor vehicles.
- (35) Community Center Building: A building used for recreational, social, educational or cultural activities, usually owned and operated by a public or nonprofit group or agency.
- (36) Commercial Indoor Recreation: An enclosed building which is principally used for games and other recreational purposes, and which is operated on a for profit basis. Commercial indoor recreation includes amusement arcades, indoor sports facilities, and the like.
- (37) Commercial Laundry Establishment: Facilities providing large scale laundry services that generally require heavy machinery, chemical treatments, and pick up and delivery of materials.
- (38) Commercial Outdoor Recreation: An outdoor area which is principally used for active or passive recreation, and which is operated on a for profit basis. Commercial outdoor recreation includes miniature golf courses, outdoor amusement rides, and the like.
- (39) Communications Tower: Any structure in excess of 15 feet in height designed for the purpose of transmitting or receiving any form of transmission.
- (40) Comprehensive Plan: The official Comprehensive Plan for the City of Cumberland, Maryland, including recommendations for land use, transportation, and community facilities.
- (41) Conditional Use: A use for which the Zoning Board of Appeals may grant permission following a public hearing and findings of fact consistent with the provisions of this

Ordinance and provided the use complies with specified conditions and standards outlined in this Ordinance.

- (42) Construction: Includes the placing of construction materials in a permanent position and fastening in a temporary or permanent manner, including active demolition of buildings.
- (43) Convalescent Home: An extended or intermediate care facility licensed or approved to provide health care under medical supervision for twenty-four or more consecutive hours to two or more patients not a member of the family which resides on the premises.
- (44) Conversion: To change or adapt land or structures to a different use, occupancy, or purpose.
- (45) Corner Lot: A lot abutting on two intersecting streets, or at the point of abrupt change in direction of a single street, where the interior angle formed by the two abutting lot lines is less than one hundred thirty-five (135) degrees.
- (46) Council: The Mayor and City Council of the City of Cumberland, Maryland.
- (47) Court: An unobstructed open area, bounded on three (3) or more sides by walls of a building or buildings. It does not include any such area with no windows opening upon it except windows on a stairway.
- (48) Cultural Center: A building and/or land open to the public which contains exhibits of a cultural interest such as a museum, art gallery, nature study area, etc.
- (49) Day Care Center (Child): Any premises operated by an agency, institution, organization, or individual in which child day care is provided simultaneously for nine (9) or more children under the age of 16 who are not relatives of the operator, for part of a 24-hour period, on a regular schedule at least twice a week.
- (50) Day Care Home (Child): A residence in which child day care is provided simultaneously for eight (8) or less children under the age of 16 who are not relatives of the operator, for part of a 24-hour period, on a regular schedule at least twice a week.
- (51) Day Treatment or Domiciliary Care Facility (Adult): A public or private institution, agency, or establishment that is licensed by the State and provides non-residential day care to five (5) or more health impaired individuals over the age of sixteen (16) years, in a facility located outside of the home of the adults' families.
- (52) Demolition: Any act which destroys in whole or in part a building or a structure.

- (53) Detached: A state of being surrounded on all sides by yards.
- (54) Discontinue: To cause to cease and desist the use, put an end to, vacate, terminate the use, remove principal implements of the former use.
- (55) District (or Zoning District): A portion of the territory of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.
- (56) Dormitory: A building or portion thereof which contains living quarters for students, staff, or members of college, university, boarding school, theological school, hospital, religious order, or comparable organization, provided that said building is either owned or managed by said organization and contains not more than one (1) cooking and eating area.
- (57) Drive-in Service Place: An establishment or activity where patrons are served with food, soft drinks, ice cream, and similar confections or where patrons are provided with professional or personal services for consumption outside the confines of the principal building or in vehicles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons. Drive-in theaters are not included.
- (58) Dwelling Unit: A room or group of rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating by one (1) family.
- (59) Dwelling Units/Mixed Occupancy: Residential units located or created within the same original structure (building) as a non-residential use which shall not in any way interfere with the ability of the non-residential use to meet the requirements and standards of this Ordinance. A separate entrance and exit shall be provided and all applicable codes regarding fire safety and housing shall be met as well as the parking standards in Section 12.
- (60) Efficiency Unit: A dwelling unit providing a sleeping area in combination with one (1) or more other living areas within the dwelling unit, the total area of which contains at least four hundred (400) square feet of habitable floor area.
- (61) Facade: The total wall surface, including door and window area, of a building's principal face. In the case of corner buildings which front on more than one (1) street, only one (1) face shall be used to calculate facade area.

- (62) Family: One (1) or more persons occupying a single dwelling unit and doing their own cooking and living together as a separate housekeeping unit.
- (63) Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected for the enclosure of areas.
- (64) Flea Market: A collection of stalls, booths, or tables, either indoors or outdoors, operated by different individuals for the sale of used merchandise, collectibles, crafts, antiques, and other items.
- (65) Floating Zone/District: A district of undetermined location that may be placed on the Zoning Map only upon petition of a property owner, and not by government initiative. A floating district may be applied to a specific property only if stated criteria are satisfied, a finding of compatibility is made, and a development plan is approved for the property. A finding of mistake in the existing zoning or a substantial change in the character of the neighborhood since the last comprehensive zoning is not required to apply a floating zone to a property. In these Zoning Regulations, only the Rehabilitation and Redevelopment (RR) District is a floating zone.
- (66) Floor Area (Gross Floor Area): The total area of all floors as measured to the outside surfaces of exterior walls (or from the centerline of party walls separating two (2) buildings), but excluding cellars, crawl spaces, garages, carports, attics without floors, open porches, balconies, and terraces.
- (67) Gasoline Service Station: See Auto Service Station.
- (68) General Merchandise Building: A building with more than five thousand (5,000) square feet but less than twenty thousand (20,000) square feet of floor area in which retail merchandise is sold.
- (69) Governmental Uses: Municipal, County, State, or Federal government buildings or facilities designed and intended to be occupied by the government or designed and intended for public use sponsored by such government.
- (70) Grade: The elevation of finished ground or paving.
- (71) Gross Density: The number of dwelling units per total area of land, including streets and other rights-of-way, parking areas and yards, and other open spaces.
- (72) Gross Habitable Floor Area: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy. Said areas shall be measured between the inside face of exterior walls.

- (73) Group Development: A “group development” is a group of two or more principal structures built on one or more lots, parcel or tract of land, and designed for occupancy by separate families, firms, businesses or other enterprises.
- (74) Group Home: Subject to Title 10 of the Annotated Code of Maryland.
- (75) Guesthouse: A structure that is detached from the principal dwelling unit on the same parcel of land that is used from time to time for temporary occupancy not to exceed thirty (30) consecutive days. Said structure shall not contain kitchen facilities and shall be approved by the City Fire Department regarding location and accessibility of fire protection equipment.
- (76) Hazardous Waste: Those wastes where significant potential exists for causing adverse public health or environmental impacts if the waste is handled, stored, transported, treated, or disposed of in that manner customarily accepted for ordinary solid wastes: materials subject to special state or federal licensing; materials designated hazardous by the federal government or the State of Maryland.
- (77) Health Club or Spa: An operation that allows participants to use exercise equipment, steam baths, and the like.
- (78) Heavy Manufacturing: The treatment or processing of raw products and the production of articles or finished products from raw or prepared materials by giving them new forms or qualities.
- (79) Height of Building or Structure: The vertical distance derived from the average finished grade at the foundation corners of the building or structure to the highest point of the building or structure, excluding a chimney or other similar structure.
- (80) High-Rise Apartment: A residential structure having a height of more than eight (8) stories, with dwelling units for rent or sale and with or without accessory uses.
- (81) Historic Buildings Map: A map prepared on the basis of an inventory and analysis of buildings in the City, indicating those buildings which are officially designated as historic buildings to be preserved, restored, or altered only in accordance with the Historic District procedures and provisions of this Ordinance and in accordance with the Historic District provisions of Article 66B of the Code of Public General Laws of Maryland.
- (82) Historic District: see Preservation District.
- (83) Historic Preservation Commission: A body duly created under Section 8.03 of Article 66B of the Annotated Code of Public General Laws of Maryland and in accordance with this Ordinance, and empowered with the responsibility of reviewing applications, plans,

and drawings for building and structure changes in the Historic District, and issuing certificates of appropriateness for such proposed building and structure changes.

- (84) Home Occupation: any occupation or business use, other than a home office of convenience, conducted entirely within a dwelling or an accessory structure or both by a resident of the property, and which is clearly incidental to the residential use of the property, excluding: antique shops; boarding or rooming houses or tourist homes; commercial repair or storage of automobiles, watercraft, or other motor vehicles; commercial stables, kennels, and nurseries; mortuary establishments; and restaurants or tea rooms.
- (85) Home Office of Convenience: an office within a dwelling or accessory structure used for the purpose of sending and receiving communications, maintaining records, and other similar functions, but where no business is conducted other than by phone, mail, or electronically, and no persons are employed on the site other than the occupants of the residence in question.
- (86) Homeowner's Association: Organization of property owners within a cluster development formed for the purpose of managing the common open space within the development.
- (87) Hospital: A building that maintains facilities to provide, under the supervision of a medical staff, diagnostic and treatment services for two or more unrelated individuals and admits or retains the individuals for overnight care.
- (88) Hotel, Motel, or Motor Inn: A building containing ten (10) or more guest rooms, or a group of such buildings especially designed for the temporary lodging of transient guests, provided that no rooms shall have cooking facilities of any kind. Such establishment shall furnish to the occupants customary hotel services such as maid service and the furnishing and laundering of linen. Eating and drinking facilities may be accessory to the hotel or motel.
- (89) Hybrid Use: A use that is not specifically identified as permitted or as a conditional use in any zoning district in this Ordinance, but which has characteristics, elements, physical and environmental impacts, structures, and/or land use that are substantially similar in nature and/or compatible with uses that are specifically identified as permitted in the Ordinance (i.e., permitted or conditional uses).
- (90) Incidental Use: See Accessory Building, Structure, or Use.
- (91) Incinerator: A facility using controlled flame combustion for the thermal destruction of solid waste. This term does not include a hazardous waste incinerator.

- (92) Indoor Sports Facility: A group of related uses of an athletic, recreational, entertainment, and/or educational nature, on a lot under common ownership and control, and which shall consist of natural or artificial playing surfaces for recognized sporting activities (such as baseball, football, soccer, basketball, swimming, or hockey) and which shall be entirely enclosed, except for accessory outdoor athletic fields (not to exceed three in number), normal and customary accessory uses, and parking. The facility may include such uses as indoor swimming pool, skating rink, sports practice facilities, sports and crafts instruction facilities, game room, video games, pinball games, redemption center, party/function rooms, pro shop, outdoor picnic area, and other related and similar uses, all designed and operated as an integrated unit for the recreation, amusement, and/or education of its patrons. Food service concession areas shall be allowed only as accessory to such facility.
- (93) Indoor Theater: A building designed or used primarily for the commercial exhibition of motion pictures to the general public.
- (94) Industrial Park: See Planned Industrial, Office, or Research Park, Section 8.06 (13).
- (95) Intermediate Care Facility: A facility for the treatment of abused, alcoholic, or drug addicted persons which provides overnight care and is licensed as an intermediate care facility by the State of Maryland.
- (96) Junk or Salvage: Any discarded material or articles, including scrap glass, containers, and structures, scrap metallic or nonmetallic items, abandoned vehicles and equipment, paper, and the like. It shall not include refuse or garbage kept in a proper container for the purpose of prompt disposal.
- (97) Junk Yard (Salvage Yard): Any land or structure where junk or salvage is discarded, bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled. "Junk yards" does not include those structures where used furniture or household equipment is stored, bought, or sold; nor those structures or land where automobiles not abandoned are stored, bought, or sold.
- (98) Kennel: A place where four (4) or more household pets are kept, boarded, trained, or raised and bred for profit, or as part of a service provided by an accompanying principal use or structure.
- (99) Laboratory (Medical): A place for sampling, analyzing, and providing of information for a particular patient as ordered by a physician.
- (100) Laboratory (Research): A place used for scientific testing, analysis, and experimental study. This use includes the humane experimentation on or raising of animals.

- (101) Light Manufacturing and Assembly Operations: The manufacturing, production or assembly of primarily small products or components into finished products, including food and beverage manufacturing, packaging, and processing; printing and binding; clothing assembly; recycling; electrical appliance assembly; etc.
- (102) Lot: A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street, not including any land within the limits of a public or private way upon which said lot abuts even if the ownership to such way is in the owner of the lot. A lot for the purpose of this Ordinance may or may not coincide with a lot of record.
- (103) Lot Area: An area of land which is determined by the limits of the property lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.
- (104) Lot Coverage: That percentage of the lot area which may be covered by one (1) level of building area.
- (105) Lot Depth: The distance along a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.
- (106) Lot Frontage: A property line or portion thereof which is coexistent with a street line. In the case of a street of undefined width, said property line shall be assumed to parallel the center line of the street at a distance one half of the right-of-way width required by the City of Cumberland Subdivision Regulations for the street type as shown on the Transportation Plan in the Comprehensive Plan.
- (107) Lot, Interior: A lot other than a corner lot.
- (108) Lot Line: The line between two (2) property corners that forms the boundary of the property, as determined by the metes and bounds described in the recorded title.
- (109) Lot Line, Front: The street line at the front of a lot. In the case of a corner lot, the property shall have two (2) front lot lines.
- (110) Lot Line, Rear: The lot line opposite to the front lot line.
- (111) Lot Line, Side: Any lot line not a front lot line nor a rear lot line.
- (112) Lot, Through or Double Frontage: A lot having its front and rear yards each abutting on a street as defined herein. The front yard regulations of the zone in which such lot is located shall apply to both frontages. Furthermore, no garage or other outbuilding shall be placed closer to the rear street line than the required front yard regulations of the subject zone.

- (113) Lot Width: The distance between straight lines connecting the ends of the front and rear lot lines measured at the required building setback lines.
- (114) Low-Rise Apartment: A residential structure (not including single family attached houses) with a maximum height of three (3) stories or thirty-eight (38) feet, with three or more dwelling units for rent or sale.
- (115) Major Auto Repairs: Includes major mechanical and body work, straightening of body parts, storage of automobiles not in operating condition, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in auto service stations.
- (116) Microbrewery: A brewery that produces less than 15,000 barrels (17,600 hectoliters) of beer per year.
- (117) Mid-Rise Apartment: A residential structure having a minimum height of four (4) stories and a maximum height of eight (8) stories with dwelling units for rent or sale and with or without accessory uses.
- (118) Mineral Extraction: A site where a mineral, stone, sand, gravel, or topsoil is extracted.
- (119) Minimum Habitable Floor Area: The minimum required floor area of a dwelling unit which is enclosed and usable for human occupancy. Said areas shall be measured from the inside face of all walls and shall not include areas not normally used as dwelling spaces such as cellars and garages, air shafts, plumbing shafts, and mechanical equipment rooms.
- (120) Mini-Storage Facility: A structure containing separate storage spaces leased or rented on an individual basis.
- (121) Minor Auto Repairs and Services: Minor automotive diagnostic and repair work, such as engine tuneup or diagnosis; tire servicing and repair; replacement of mufflers and tailpipes, water hoses, fan belts, fluids, wheel bearings, mirrors, and the like; adjusting and repairing brakes; radiator cleaning and flushing; greasing and lubrication; and changing or repairing fuel pumps, oil filters, and lines.
- (122) Mobile Home: A dwelling unit manufactured in one (1) complete section, designed for long-term occupancy, containing sleeping accommodations, a flush toilet, a bath or shower, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported, after fabrication, on its own wheels or on a flatbed or other trailer, arriving at the site where it is to be occupied as a complete dwelling, which may include major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations. For

purposes of this Ordinance, modular and sectional dwelling units and travel trailers are not considered as mobile homes. For purposes of this Ordinance, a mobile home shall not be construed as a single family detached dwelling unit.

- (123) Mobile Home Park: A parcel of land which has been planned and improved for the placement of mobile homes occupied for dwelling or sleeping purposes and for non-transient use.
- (124) Modular or Sectional Dwelling Unit: A unit manufactured in two 2 or more sections designed for permanent occupancy and transported to a building site in sections which are fastened together and mounted on a permanent foundation ready for occupancy except for minor and incidental unpacking and assembly operations. For purposes of this Ordinance, modular or sectional dwelling units include prefabricated and other similar types, but mobile homes and travel trailers are not considered as modular or sectional dwelling units. For purposes of this Ordinance, modular or sectional dwelling units may be single family detached, single family attached, low-rise, mid-rise, or high-rise dwellings. The electrical, plumbing, heating, structural, and other components of a modular or sectional dwelling shall be approved by the Code Administrator of the State of Maryland with the City of Cumberland Building Code.
- (125) Motor Freight Terminal: A structure or land where truck transported goods are transferred or stored pending transfer, and which may include truck dispatching, parking, and servicing (but no retail sales of motor fuels, oils, or accessories) and temporary accommodations for truck drivers.
- (126) Multi-Family Dwelling: A dwelling unit in a building or group of buildings containing three (3) or more dwelling units as in low-rise apartments, mid-rise apartments, or high-rise apartments.
- (127) Nightclub: An establishment in which the primary use is the sale of alcoholic beverages and which provides entertainment and/or an area for dancing.
- (128) Nonconforming Lot: A lot of record existing at the date of passage of this Ordinance or due to subsequent zoning changes which does not have the minimum width or contain the minimum area for the zone in which it is located.
- (129) Nonconforming Sign: A lawfully existing sign at the effective date of this Ordinance which does not conform to the controls regulating signs in this Ordinance.
- (130) Nonconforming Structure: A lawfully existing structure at the effective date of this Ordinance, or any amendment thereto, affecting such structure which does not conform to the Building Regulations of this Ordinance for the district in which it is situated.

- (131) Nonconforming Use: Any use of a building, structure, lot, or land, or part thereof, lawfully existing at the effective date of this Ordinance, or any amendment thereto affecting such use, which does not conform to the regulations of this Ordinance applicable to the use and the district in which it is situated.
- (132) Nursery/Greenhouse: The raising of trees (for transplanting), ornamentals, shrubs, flowers, or house plants for any commercial purpose.
- (133) Nursing Home: A building containing sleeping rooms used by predominately elderly or disabled persons who are lodged and furnished with meals.
- (134) Office: A building in which a business is conducted but no merchandise is displayed or exchanged, and in which professional or personal services are performed.
- (135) Official Zoning Map: The map as adopted or amended by the Mayor and City Council which designates the locations and boundaries of zoning districts.
- (136) Open Area: An unoccupied area open to the sky, usually in a natural state but including squares, plazas, and formal gardens. Also the unoccupied area open to the sky on the same lot with a principal and/or accessory building.
- (137) Open Space: The area of lot unoccupied by principal or accessory structures, streets, driveways, or parking areas but including areas occupied by walkways, patios, porches without roofs, playgrounds, outdoor recreation or play apparatus, gardens, or trees.
- (138) Ordinance: The Zoning Ordinance for the City of Cumberland, including the Official Zoning Map and any amendments enacted by the Mayor and City Council.
- (139) Park: Any area which is predominately open space, is used principally for active or passive recreation, and not used for a profit making purpose. Any area designated by the City as a park.
- (140) Patio: An area or courtyard which is not covered by a roof or permanent awning, and is designed for outdoor living purpose as an accessory use to a structure.
- (141) Permit: A document issued by the proper City authority authorizing the applicant to undertake certain activities.
- (a) Building Permit: A permit indicating that a proposed construction, alteration, or reconstruction of a structure is in accordance with the construction provisions of any building code adopted by the City which authorizes an applicant to commence with said construction, alteration, or reconstruction.

- (b) Occupancy Permit: A permit issued upon completion of the construction of a structure, or a change in use of a structure or parcel of land, or reoccupancy of a structure or land indicating that the premises comply with the provisions of the Zoning Ordinance and may be used for the purposes set forth in the occupancy permit.
- (142) Permitted Use: A use legislatively predetermined by the Mayor and City Council to be compatible in a particular zoning district and which does not require special action by the Zoning Board before a zoning permit is granted by the Zoning Official.
- (143) Person: An individual, partnership, organization, association, trust, or corporation. When used in a penalty provision, "person" shall include the members of such partnership, the trustees of such trust, and the officers and members of such organization, association, or corporation.
- (144) Personal Service Establishment: Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pick-ups, laundromats, shoe shine parlors, pet grooming establishments, and other similar establishments. Retail sales shall be allowed as incidental uses in personal service establishments.
- (145) Pet Grooming Establishment: A personal service establishment that, for a fee, trims, cleans, or curries domestic pets such as dogs or cats and which may sell pet supplies as an incidental use. This term does not include establishments which board pets.
- (146) Plan (Certified): A plan prepared by a registered professional engineer, architect, landscape architect, or surveyor.
- (147) Planned Development: An area of land under single ownership containing any combination of two (2) or more principal uses permitted by right or as a conditional use in the district in which the development is proposed, provided that conditional use approval must be obtained for any proposed use so listed in the regulations of the district in which the development is proposed.
- (148) Planned Shopping Center: A shopping area of integrated design and development and including, but not limited to, such uses as retail shops, personal service establishments, professional and business offices, banks, post offices, restaurants, theaters, and auditoriums, and housed in an enclosed building or buildings and utilizing such common facilities as customer parking, pedestrian walks, loading and unloading space, utilities, and sanitary facilities.
- (149) Planning Commission: Municipal Planning and Zoning Commission of the City of Cumberland, Maryland.

- (150) Preservation District: A significant concentration, linkage, or continuity of sites, structures, or objects united historically, architecturally, archeologically, or culturally by plan or physical development, as defined and designated by the Mayor and City Council.
- (151) Principal Building Structure or Use: A structure or use in which is conducted the main or principal use of the lot on which said structure or use is located.
- (152) Private Residential Garage: Any garage, in the residential zoning district, used for the sole purpose of parking or storing personal vehicles.
- (153) Professional Office: Offices of members of a recognized profession maintained for the conduct of such profession, including but not limited to accounting, auditing and bookkeeping services; advertising agencies; architectural, engineering, planning, and surveying services; attorneys; counseling services; data processing and computer services; educational, scientific and research organizations; employment, stenographic, secretarial and word processing services; management, public relations and consulting services; photography and commercial art studios; and writers and artists offices. Does not include physicians, dentists, and opticians offices, which are included under the definition of Ambulatory and Health Care Facilities, nor veterinary offices, which are defined under Veterinary Office/Hospital.
- (154) Public Art: Artwork including sculptures, statues, murals, and the like, not designed to advertise a specific business or enterprises.
- (155) Public Utility: Hydroelectric and electric lines, power plants and electric substations, pumping and boating stations, pipelines, sewage treatment plants, water plants, and other similar facilities necessary to serve demonstrated public needs.
- (156) Rental Unit: A space approved for occupancy for lease or rent to another.
- (157) Residential Conversion: The conversion of single-family or twin (duplex) dwelling units to two or more family dwelling units.
- (158) Restaurant, Fast Food: An establishment whose principal business is the sale of foods and/or beverages over the counter (not served by a waiter or waitress) for consumption on or off the premises. These include any and all drive-in service restaurants.
- (159) Restaurant, General: An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics:

- (a) customers are normally provided with an individual menu and are served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or
 - (b) cafeteria-type operation where food and beverages generally are consumed within the restaurant building.
- (160) Retail/Accessory Light Manufacturing: A permitted retail use in which related light manufacturing functions are conducted in an area subordinate in size to the area of the retail establishment itself.
- (161) Retail Center: A building containing more than twenty thousand (20,000) square feet of floor area in which retail merchandise is sold.
- (162) Retail Building: A building with less than five thousand (5,000) square feet of floor area in which retail merchandise is sold.
- (163) Right-of-way: Land acquired and owned by a governmental agency or public utility and reserved for public use.
- (164) Rooming House: See Boarding House.
- (165) Screen: A fence or natural obstruction of sufficient height (but not less than six (6) feet high) to effectively visually obscure the area being screened from adjoining areas.
- (166) Self-Storage Facility: See Mini-Storage Facility.
- (167) Setback Line: The line drawn parallel to the street or lot line and at the required depth as defined in this Ordinance.
- (168) Sewage Disposal System: A system designed to collect, treat, and dispose of sewage from users in compliance with regulations of the appropriate state agency and of the City.
- (169) Shelter or Transitional Housing Facility: Subject to Title 5.05.09.03 of the Annotated Code of Maryland.
- (170) Sign: Any permanent or temporary structure or part thereof, or any device attached, painted, or represented directly or indirectly on a structure or other surface that displays or includes any letter, word, insignia, flag, or representation used as, or which is the nature of, an advertisement, announcement, visual communication, direction, or is designed to attract the eye, or bring the subject to the attention of the public. Flags of any governmental unit or branch or any charitable or religious organization, interior signs not visible from a public right-of-way or adjoining property, and cornerstones built into or

attached to a wall of a building are excluded. (See Section 14.04 for definitions of individual sign types.)

- (171) Sign, Off-Premises: A sign which directs attention to a person, business, profession, product, home occupation, or activity not conducted on the same lot; i.e., commercial advertising signs.
- (172) Sign, On-Premises: A sign which directs attention to a person, business, profession, home occupation, or activity conducted on the same lot.
- (173) Single-Family Attached Dwelling: A building commonly known as a duplex (if attached to one other dwelling), townhouse or condominium (if attached to two or more other dwellings), designed for and occupied exclusively as a residence for only one (1) family and having:
- (a) Only one (1) dwelling unit from ground to roof;
 - (b) Independent outside access;
 - (c) At least one (1) other dwellings built in conjunction therewith; and
 - (d) Any portion of one (1) or two (2) walls in common with an adjoining dwelling.
- (174) Single-Family Detached Dwelling: A building, commonly known as a single-family house, designed for and occupied exclusively as a residence having:
- (a) Only one (1) dwelling unit from ground to roof;
 - (b) Independent outside access; and
 - (c) Yards on all sides.
- Where a private garage is structurally attached to such a dwelling, it shall be considered as a part thereof.
- (175) Site Alteration: Modification of existing topography, including clearing vegetation or altering watercourses.
- (176) Site Plan: A proposal for the development of land, prepared in accordance with the Zoning Ordinance, including a plat of subdivision (if necessary), all requirements relating to use, location, and bulk of buildings and other structures, intensity of uses or density of development, streets, ways, and parking facilities, common open space, and public facilities. The phrase "provisions of the site plan," when used in the Zoning Ordinance, shall mean both the written and graphic materials referred to in this definition.
- (177) Special Exception Use: See Conditional Use.

- (178) Story: That part of a structure included between any floor and the floor or roof next above. When applied to the permissible height of buildings the term "story" shall not include a basement if the basement is not designed for living quarters and if the floor thereof is more than four (4) feet below the average ground level.
- (179) Street: Any road, highway, avenue, street, parkway, lane, or any other way, public or private, set aside and commonly used by the public for street purposes, and shown upon the Official Map or upon a filed plat. An alley shall not be deemed a street.
- (180) Street Line: A street line is the right-of-way or established property line of a street as indicated by dedication or by deed of record.
- (181) Structure: Anything constructed or erected which requires its permanent location on or below the ground, or which is permanently attached to something having permanent location upon the ground, excepting fixed and moveable awnings. A building shall be construed to be a structure.
- (182) Swimming Pool, Private: Any receptacle or artificially constructed container for water, whether erected above or below ground level, having a wall depth of greater than two (2) feet at any point within its perimeter intended or adapted for the purpose of immersion or partial immersion of human beings therein, used in connection with dwelling units, available only to the family of the dwelling unit holder and his private guests, not open to the public, and not otherwise regulated by any statutes or by rules and regulations other than those of the City and of the State of Maryland.
- (183) Swimming Pool, Public or Semi-Public: Any swimming pool other than a private swimming pool, including publicly and privately owned pools open to the general public and pools owned and operated in conjunction with membership organizations, motels, hotels, and other similar uses.
- (184) Temporary Structure: A structure which is not designed to last or to be used for a specific use or occasion for more than ninety (90) consecutive days (which duration can be extended for not more than thirty (30) days as approved by the Zoning Administrator) in any twelve (12) month period. Examples of temporary structures may include but are not limited to tents associated with sales events, vendor trailers, etc.
- (185) Townhouse: See Single-Family Attached Dwelling.
- (186) Two-Family Dwelling or Duplex Dwelling: Any building under one (1) roof designed or arranged for occupancy by two (2) households living as families and with individual and separate complete living facilities and not exceeding three (3) stories in height.

- (187) Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.
- (188) Variance: A granting of permission for modification of the requirements of the Zoning Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance would result in either unnecessary hardship or practical difficulty.
- (189) Vehicle Impoundment Area: See Auto Impoundment Area.
- (190) Veterinary Office/Hospital: Any building used for the treatment and limited temporary internal boarding of small domestic animals such as dogs, cats, goats, rabbits, and birds or fowl by a veterinarian. Such use shall not be construed as a home occupation or a professional office under the definitions and terms of this Ordinance.
- (191) Warehouse: A building used for the storage of goods, wares, and merchandise that will be processed, sold, or otherwise disposed of off the premises.
- (192) Wind Energy System, Small: An exterior accessory device and essential supporting structure to a permitted principal use specifically designed to convert kinetic wind energy to electric power and having a rated maximum output of not more than fifteen (15) Kilowatts of electricity for direct consumption on the subject property or for connection to the electric power grid to offset the cost of electric service consumed on the subject property. This use shall be allowed as a Conditional Accessory Use, subject to approval by the Zoning Board of Appeals, on any property in any zoning district, with the exception of the Conservation and Viewshed Protection Overlay Zones. Any wind energy system that exceeds these parameters shall be classified as a Large Wind Energy System.
- (193) Wind Energy System, Large: A device and essential supporting structure specifically designed to convert kinetic wind energy to electric power and having a rated maximum output in excess of fifteen (15) Kilowatts of electricity. Such systems shall be prohibited in all zones. (See also Wind Energy System, Small)
- (194) Yard, Front (Required): An area extending along the full length of a front lot line wholly between side lot lines and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front setback of the zone wherein the lot is located.
- (195) Yard, Rear (Required): An area extending along the full length of a rear lot wholly between side lot lines and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear setback of the zone wherein the lot is located.

- (196) Yard, Side (Required): An area extending from the front setback line to the rear setback line along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of the required setback of the zone wherein the lot is located and excluding any area encompassed within a required front or rear yard.
- (197) Zone/Zoning District: An area within which structures and land are subject to identical regulations that permit or prohibit certain uses. The zone also establishes other requirements, including lot areas, yards and other open space, and building height limits.
- (198) Zoning Administrator: The duly authorized and designated agent of the City responsible for administering, enforcing, and interpreting the City Zoning Ordinance and other codes or ordinances, and for issuing official interpretations, zoning, building, occupancy, and other permits. A Zoning Administrator may also be termed a Zoning Officer, Building Officer, Building Engineer, or the like.
- (199) Zoning Map: The zoning map of the City together with all amendments thereto subsequently adopted.