Chapter 23

SUBDIVISIONS

Article I: General Provisions

23-1 PURPOSE

These regulations establish measures and requirements for the subdivision of parcels of land and the procedures by which these requirements and measures are to be administered and enforced. The purpose of these regulations is to help ensure the orderly development of the City of Cumberland in accordance with the Comprehensive Plan and to provide for adequate community facilities in development and redevelopment areas.

23-2 AUTHORITY

These regulations are established in accordance with the provisions of the Land Use Article of the Annotated Code of Maryland.

23-3 JURISDICTION

Effective the date of adoption of these regulations, any owner of any tract, parcel, or lot of land located in the incorporated territory of the City of Cumberland who subdivides that land, creating one or more new lots or parcels of land, shall have a plat of this subdivision prepared and approved by the Municipal Planning and Zoning Commission of the City (hereinafter referred to as "Planning Commission" or "Commission") or its official designee in accordance with these regulations and the provisions of the Land Use Article of the Annotated Code of Maryland.

23-4 SEVERABILITY

It is hereby declared to be the intention of the Mayor and City Council of Cumberland that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance or the prior Ordinances hereby reenacted shall be declared unconstitutional or otherwise invalid for any reason in a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance or the prior Ordinances hereby reenacted.

23-5 OTHER APPROVALS REQUIRED

Projects requiring subdivision approval shall also comply with all other applicable local, state, and federal laws and regulations, such as the City of Cumberland Zoning Ordinance, City of Cumberland Stormwater Management Ordinance, soil erosion and sediment control requirements of the Allegany County Soil Conservation District etc.

Sections 23-6 through 23-14 reserved.

Article II: Definitions

23-15 SUBDIVISION

(a) Subdivision: A "subdivision" shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in an existing street or streets; provided, however, that the following shall not be included within this definition nor be subject to the provisions of these regulations:

(1) The combination or recombination of previously platted lots where the total number of lots is not increased and the resultant lots comply with the zoning regulations of the City of Cumberland.

(2) The division of land into parcels greater than five acres where no street right-of-way dedication is involved and the resultant lots comply with the applicable zoning regulations of the City of Cumberland.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets.

(b) Minor Subdivision: A “minor subdivision” is any subdivision containing not more than five (5) lots fronting on an existing street; not involving any new street or road, the extension of municipal facilities, or the creation of any public improvements; not adversely affecting the remainder of the parcel or adjoining property; and not in conflict with any provision or portion of the Zoning Ordinance or these regulations.

(c) Major Subdivision: A “major subdivision” is any subdivision not classified as a minor subdivision, including but not limited to subdivisions of six (6) or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.

23-16 LOT

A “lot” is a piece, parcel or plat of land, intended as a unit for transfer of ownership or for development.

23-17 STREETS AND ALLEYS

A "street" is a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

(a) **Major arterial streets** are streets that now serve or may serve heavy local and regional traffic and major State and Federal highways.

(b) **Collector streets** are streets that carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

(c) **Local service or minor streets** are streets that are designed primarily to provide access to adjacent properties.

(d) **Cul-de-sac** shall mean a short minor street having one end open for vehicular traffic, the other end being permanently terminated, normally with a circular turn-around.

(e) **Alley** shall mean a strip of land publicly or privately owned which provides a secondary means to adjacent properties.

(f) **Marginal access streets** are minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

(g) **Limited access streets** are arterial highways which have no intersections at grade with other streets, railroads, and no access from abutting properties.

(h) **Controlled access streets** are arterial streets and highways which have only a limited number of at-grade intersections with streets and railroads, and limited access from abutting properties.

23-18 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.

23-19 LOT LINE ADJUSTMENT PLAT

A Lot Line Adjustment Plat is a survey plat prepared by a Licensed Land surveyor that is designed to adjust or change a common property line between any two (2) or more adjoining lots of record, provided that the total area of land involved will not either increase the number of parcels that currently exist or that could be legally created from any of the affected lots prior to the adjustment and the proposed adjustment will not create a lot that either does not comply with the Zoning Ordinance or will increase an existing nonconforming situation on any affected lot. A Lot Line Adjustment Plat shall be approved by the Zoning Administrator after confirming that all of the following standards and requirements have been satisfied:

(a) Zoning Compliance: Each lot impacted by a proposed lot line adjustment shall be reviewed for compliance with the applicable Zoning requirements for the zoning district in which the lot is located. A proposed lot line adjustment shall not be approved for recording if it will either cause a new nonconforming situation or increase an existing nonconforming situation on any affected lot unless and until a variance for said nonconformity has been approved in accordance with the procedures in Section 7 of the Zoning Ordinance.

(b) Deed of Exchange: Each Lot Line Adjustment Plat that is intended to exchange portions of land between two or more existing lots of record under separate ownership shall be accompanied by a properly and fully executed Deed of Exchange to be recorded by the City along with the approved Lot Line Adjustment Plat. Said deed shall specifically reference the accompanying Lot Line Adjustment Plat and shall accurately and completely describe the portions of the lots that will be conveyed or exchanged as a result of the proposed lot line adjustment.

(c) Lot Line Adjustment Plat Specifications: A Lot Line Adjustment Plat shall be drawn in waterproof ink on mylar and shall be at a scale of fifty (50) or one hundred (100) feet to one (1) inch. Where necessary, the plat may be on several sheets, accompanied by an index sheet showing the appropriate match lines for all detailed sheets. The Surveyor or his/her agent shall also submit to the City Engineer, after approval, scanned digital copies of the signed final plat in PDF format and an AutoCAD digital file copy (saved in the latest available version of AutoCAD) of the fully signed final plat. The Lot Line Adjustment plat shall also show the following:

(1) The exact boundary of each lot affected by the adjustment, showing clearly the existing and proposed new property lines, the amount of land to be exchanged between each lot, and the lot or lots from which and to which the adjustment will occur.

(2) The names of the legal owners and the assigned street addresses for each affected lot of record.

(3) The lines and names of all streets, alley lines, lot lines, building lines, easements and areas devoted to public use, with notes stating their purposes.

(4) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing and length of every street and alley line, lot line, easement boundary line, block line and building line whether straight or curved for each affected lot. This shall include tangent distances, the central angle, and the radius, arcs, and chords of all curves. All linear dimensions shall be given in feet and hundredths thereof and angular dimen sions shall be of comparable accuracy within the limits of good surveying practices. The boundaries of the tract shall be determined by an accurate survey with an error of closure not to exceed one (1) in ten thousand (10,000).

(5) The accurate location, material and size of all monuments.

(6) All setback lines accurately dimensioned.

(7) The name of the licensed land surveyor under whose supervision the plat was prepared, the date of the plat and the north arrow.

(8) Certification of the licensed land surveyor to the effect that the plat repre sents a survey made by him and that all monuments shown thereon actually exist and that their location, size and material are accurately shown.

(9) A form on the plat for the endorsement of the Zoning Administrator, similar to the following:

Approved by the City of Cumberland Zoning Administrator,
on the _____ day of _____, 20_____.
Signed: _____
Zoning Administrator

Sections 23-20 through 23-29 reserved.

Article III: Procedure for Securing Approval of Subdivisions

23-30 MINOR SUBDIVISION REVIEW PROCEDURES

Minor subdivisions as defined in Section 23-15 (b) shall be reviewed by the Planning Commission, acting through the Zoning Administrator or his/her authorized designee, in accordance with the following procedures:

(a) Preliminary Plat Conference: The Minor Subdivision applicant or his/her agent shall schedule a conference with the Zoning Administrator or his/her authorized designee to discuss the plat preparation and approval process prior to submitting a plat for review. The Zoning Administrator will provide information and advice concerning the review procedure and provide coordination for plat review and approval. The Zoning Administrator's office, however, will not undertake to design the subdivision or perform any service for which a qualified surveyor should be engaged.

(b) Final Plat - Application for Approval:

(1) Following the Preliminary Plat Conference, a Final Plat will be prepared in conformance with the requirements specified in Article VI (Plat Data). The Final Plat shall reflect the guidance received in the Preliminary Plat Conference and satisfy the applicable requirements of the Subdivision Regulations and Zoning Ordinance.

(2) If the Planning Commission, acting through the Zoning Administrator, is satisfied that the proposed subdivision is not contrary to applicable provisions of these regulations or any other law or ordinance, the Zoning Administrator will, after approval and signature of the City Engineer and any other applicable agency head, approve and sign the Final Plat.

(3) Following approval and signature by the Zoning Administrator, three (3) copies drawn in waterproof ink on mylar of the Final Plat are to be filed with the Clerk of Court of Allegany County by the Zoning Administrator's office, and other copies distributed to appropriate agencies including one (1) each for the files of the City Engineer and the Planning Commission. One (1) print of the signed tracing shall be returned to the Subdivider. The Subdivider or his/her agent shall also submit to the City Engineer scanned digital copies of the signed final plat in PDF format and an AutoCAD digital file copy (saved in the latest available version of AutoCAD) of the fully signed final plat.

(4) When an application for final approval of a plat has been submitted to the Zoning Administrator in accordance with these regulations and no notice of objection has been given by the Administrator within thirty (30) days after the submission thereof, and no such notice is given at the end of such time upon demand of the

applicant, the plat shall be deemed to be approved and a certificate to that effect shall be issued by the Zoning Administrator's office, on demand.

(5) The Final Plat shall be accompanied by the proposed restrictions, if any.

23-31 MAJOR SUBDIVISION REVIEW PROCEDURES:

Major subdivisions as defined in Section 23-15 (c) shall be reviewed by the Planning Commission in accordance with the following procedures:

(a) Pre-Application Procedure:

(1) Before filing an application for conditional approval of the Preliminary Plat, the Subdivider shall submit to the Planning Commission a sketch plan of the proposed subdivision indicating existing conditions, land characteristics (including significant trees as defined in Section 23-42 (d)), available utilities, existing covenants, and a general description or layout of the proposed number of residential lots, proposed lot sizes, utility and street improvements, and areas for all uses other than residential. This step does not require formal application but serves as an opportunity for preliminary discussions and recommendations.

(2) Within fifteen (15) days of the regular meeting at which the sketch plan is discussed, the Planning Commission shall inform the Subdivider that the plans and data as submitted, or as modified, do or do not meet the objectives of these regulations. When the Planning Commission finds the plans and data do not meet the objectives of these regulations, it shall express its reasons therefore.

(b) Preliminary Plat - Application for Conditional Approval:

(1) On reaching conclusions, informally as recommended in Section 23-31 (a) (2) above, regarding his general program and objectives, the Subdivider shall cause to be prepared a Preliminary Plat, together with preliminary improvement plans and other supplementary material as specified in Article VI.

(2) Before any Subdivider or his agent contracts for the sale of or offers to sell the whole or any part of any subdivision of land or any interest therein, said Subdivider or his agent shall file five (5) prints of a Preliminary Plat of said subdivision with the Planning Commission for its study, review, and recommendations. Such prints shall be filed in the office of the Planning Commission at least two (2) weeks before its next regular meeting to assure consideration of said Plat. One of these prints shall be for the records of the City Engineer for his recommendations. After the staff review has been completed and the Preliminary Plat is scheduled for consideration by the Planning Commission, the subdivider shall provide an additional seven (7) copies of the Preliminary Plat

for the review file and for mailing to the individual members of the Planning Commission.

(3) The Preliminary Plat shall be prepared in accordance with the requirements specified in Article VI (Plat Data) and shall be submitted prior to the completion of the final surveys of streets and lots and before any grading or construction work has been started upon the proposed streets and before any map of said subdivision is made in final form for recording.

(4) The Preliminary Plat shall be reviewed by the Planning Commission, Zoning Administrator, City Engineer, and other officials affected by such Plat for conformance with the Subdivision Regulations, Zoning Ordinance, pertinent goals and objectives of the Comprehensive Plan, and other applicable regulations and policies.

(5) On receipt of reports from the Zoning Administrator, City Engineer, and other officials and on completion of its review, the Planning Commission shall, within forty (40) days, approve or disapprove the Preliminary Plat, advising the Subdivider of its action.

(6) Preliminary approval shall not constitute approval of the Final Plat, rather it shall be deemed an expression of the approval of the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat which will be submitted for the approval of the Planning Commission and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.

(7) The action of the Planning Commission shall be noted on two (2) copies of the Preliminary Plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the Subdivider and the other retained by the Planning Commission.

(8) Should the Subdivider fail to submit to the Planning Commission, within two (2) years of the date of the conditional approval of the Preliminary Plat, a Final Plat affecting all or a portion of the area covered by the Preliminary Plat, the conditional approval of the Preliminary Plat shall expire.

(c) Final Plat - Application for Approval:

(1) Application for approval of the Final Plat shall be submitted in writing to the office of the Planning Commission at least ten (10) days prior to the regularly scheduled meeting at which the applicant desires it to be considered.

(2) The original signed mylar and six (6) paper prints or copies of the Final Plat and other exhibits required for approval shall be submitted as specified in Article VI.

One (1) of these prints shall be for the records of the City Engineer for review and approval according to item (4) below.

(3) The Final Plat shall conform substantially to the Preliminary Plat as approved, and if desired by the Subdivider, it may constitute only that portion of the approved Preliminary Plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all the requirements of these regulations.

(4) A certificate by the City Engineer shall be furnished stating that the improvements required to be accomplished by the Subdivider have been satisfactorily completed; or, in lieu thereof, the Subdivider shall furnish to the City a bond or other form of guarantee acceptable to both the City Attorney and the Planning Commission, to assure the accomplishment of such improvements within the period of time fixed by the Commission in an amount recommended by the City Engineer, and approved by the Commission, to be adequate to cover the total estimated costs of the required improvements, or in the alternative, a receipt from the City Clerk, showing that prepayment has been made in the amount so fixed. The Subdivider shall provide an as-built drawing of improvements certified correct by a Registered Professional Engineer. Said as-built drawing submissions shall be prepared in the same manner and in the same formats as required for the Final Plat under Section 23-31 (c) (5) below. When the City Engineer and the Planning Commission have determined that a performance bond is required for a proposed subdivision, the Subdivider shall post said bond with the City prior to recording of the Final Plat.

(5) The Planning Commission shall review each application for final approval presented in accord with these rules and regulations. When the Planning Commission grants final approval, such approval shall be entered in writing by the Chairman or Secretary of the Commission on the original plat mylars, three (3) mylar prints of which are to be filed with the Clerk of Court of Allegany County by the Commission, and other copies distributed to appropriate agencies including one (1) each for the files of the City Engineer and the Commission. One (1) print of the signed plat shall be returned to the Subdivider. The Subdivider or his/her agent shall also submit to the City Engineer scanned digital copies of the signed final plat in PDF format and an AutoCAD digital file copy (saved in the latest available version of AutoCAD) of the final plat that was signed.

(6) When an application for final approval of a plat has been submitted to the Planning Commission in accordance with these regulations and no notice of objection has been given by the Commission within thirty (30) days after the submission thereof, and no such notice is given at the end of such time upon demand of the applicant, the plat shall be deemed to be approved and a certificate to that effect shall be issued by the Commission, on demand.

(7) The Final Plat shall be accompanied by the proposed restrictions, if any.

(8) Once a Final Plat for a Major Subdivision has been approved and signed by the Planning Commission, it shall be recorded in the Allegany County Land Records Office by City staff.

Sections 23-32 through 39 reserved.

Article IV: General Requirements and Minimum Standards of Design

CONFORMITY WITH EXISTING PLANS

All proposed subdivisions shall be in conformity with a plan for the most advantageous development of the entire neighboring area and shall bear a sensible relationship to the City's existing or amended Comprehensive Plan. Resubdivision of a lot or parcel of land in an existing recorded subdivision will be approved only in those cases where it is clearly shown that such resubdivision will not in any manner be detrimental to the neighboring area or plan.

23-40 STREETS:

(a) **Major Thoroughfare Plan**: Whenever a tract to be subdivided embraces any part of a thoroughfare, boulevard, or parkway so designated by the Planning Commission, such part of such proposed public way shall be platted by the Subdivider in the location and to the width recommended by the Commission.

(b) **Relation to Adjoining Street System**: The proposed street system shall extend existing streets or projects to the same or greater width but in no case less than the required minimum width. Where in the opinion of the Planning Commission it is desirable to provide for street access to adjoining property, proposed streets shall be extended by their dedication to the boundary of such property. The Planning Commission may require a Subdivider to provide a future street connection to an adjoining parcel of land that would otherwise be landlocked or would be made landlocked by the proposed subdivision. The Planning Commission also may, upon recommendation of the Police Chief, Fire Chief, and/or the Comprehensive Plan, require multiple street access points for subdivisions creating twenty (20) or more buildable lots to ensure adequate and safe alternative access for the provision of reliable emergency services.

(c) **Unsubdivided Portion of Plat**: When the plat submitted represents only a portion of land owned by the Subdivider, the Subdivider shall submit a tentative street layout for the remaining portion of the land.

(d) **Contour of Land**: The proposed subdivision shall take advantage of and be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(e) **Minor Streets**: Minor streets shall be laid out so that their use by through traffic will be discouraged

(f) **Marginal Access Streets**: When a subdivision borders or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require, based on a recommendation by the City Engineer, a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(g) **Reserve Strip**: Reserve strips controlling access to streets shall be prohibited except where they are definitely placed under City control in accordance with conditions approved by the Commission.

(h) **Curves and Grades**:

(1) *Tangents:* A tangent at least 100 feet long shall be introduced between reverse curves on all arterial and collector streets.

(2) *Horizontal Curves:* Where a deflection angle of more than 10° in the alignment of a street occurs, a curve of reasonably long radius shall be introduced. The centerline radius of curvature shall not be less than 400 feet on all major arterial streets, 300 feet on all collector streets and 200 feet on all minor local service streets.

(3) *Alignment and Visibility:* Clear visibility measured along the centerline, shall be provided for at least three hundred (300) feet on major arterials; two hundred (200) feet on collector streets and at least one hundred (100) feet on minor streets.

(4) *Vertical Curves:* All changes in grade shall be connected by vertical curves designed to the specifications of the City Engineer, in accordance with good engineering practice.

(5) *Grades:* Grades on all street profiles shall be approved as specified by the City Engineer, in accordance with good engineering practice. Whenever feasible, grades shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
Arterial	Per Maryland State Highway Administration standards
Collector	10%
Minor	12%
Marginal Access	10%

(i) **Intersections**:

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect with any other street at less than a 60 degree angle.

(2) Property lines at street intersections shall be rounded with a radius of twenty (20) feet or of greater radii where the Commission may deem it necessary. The Commission may permit comparable cutoffs or chords in place of rounded corners.

(3) At street and alley intersections, curbs shall be rounded by an arc, the minimum radius of which shall be ten (10) feet.

(4) Street jogs with centerline off-sets of less than 125 feet shall be avoided.

(j) **Rights-of-Way**: Street right-of-way widths shall be as shown on the Thoroughfare Plan and where not shown therein shall be not less than as follows:

Street Type	Right-of-Way Width
Major Arterial	80 feet
Collector	60 feet
Minor	50 feet
Marginal Access	40 feet
Alley	20 feet

Subject to the approval of the City Engineer, the above requirements may be reduced in cases where the full specified right-of-way width is not available.

(k) **Half Streets**: Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(l) **Dead-End Streets**: Streets designed to have one end permanently closed (cul-de-sacs) shall terminate in a circular area for public right-of-way having a minimum property line radius of 50 feet. In addition, space for parking bays shall be provided as needed. Cul-de-sacs longer than 500 feet are discouraged.

(m) **Temporary Turn-Arounds**: The Planning Commission may require a suitable turn-around when a street is temporarily dead-ended over one hundred and fifty (150) feet from its nearest intersection. Such turn-around will be adequate to accommodate the turning radius of fire engines and other emergency vehicles. Temporary turn-arounds also may be provided at the parcel boundary, where a future interparcel street connection is required by the Planning Commission.

(o) **Alleys**: Alleys shall be provided to the rear of all lots used for the business purposes but shall not be provided in residential blocks except where the need for alleys is fully justified.

(p) **Street Names**: Proposed streets which are obviously in alignment with others already existing and named shall bear the name of the existing streets. In no case shall the name for proposed streets duplicate, or be phonetically similar to existing street names, irrespective of the use of the suffix: Street, Avenue, Boulevard, Drive, Place or Court. Street name suffixes for proposed new alleys should be "Alley" and appropriate suffixes for all proposed private drives should be "Way" or "Place." All proposed street names shall be reviewed and approved by the City prior to Preliminary Plat approval, in coordination with the Allegany County Street Naming and Numbering Committee.

23-41 BLOCKS:

(a) **Orientation**: The length, width and shape of a block shall be determined with due regard to (1) provision of adequate building sites suitable to the special needs of the type of use contemplated, (2) needs for convenience, access, circulation, control and safety of street traffic, (3) limitations and opportunities of topography, and (4) zoning requirements as to lot sizes and dimensions.

(b) **Block Length**: Block lengths shall not exceed sixteen hundred (1,600) feet, or be less than three hundred fifty (350) feet.

(c) **Block Width**: Blocks shall be at least wide enough to allow two tiers of lots of minimum depth, except where prevented by topographical conditions, or the size of the property. A single tier of lots may be used adjoining a major thoroughfare when access is provided from a minor interior street.

(d) **Crosswalks**: Pedestrian crosswalks not less than ten (10) feet wide may be required when deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

(e) **Sidewalks**: Sidewalks at least five (5) feet wide shall be provided when required by the Planning Commission to provide proper circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Mid-block and non-intersection crosswalks shall not be allowed, unless otherwise approved by the City Engineer.

23-42 LOTS:

The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development contemplated and shall conform to the following:

(a) **Arrangement**:

(1) Every lot or parcel of land shall abut on a public right-of-way.

(2) Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

(3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(4) Double frontage and reverse frontage lots shall be avoided except where desirable to provide separation of residential development from traffic arteries and to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right-of-way access, shall be provided along the lines of lots abutting such traffic artery or other disadvantageous use.

(5) Corner lots for residential use shall have extra width to permit appropriate building set-back from and orientation to both streets.

(b) **Lot Size**: Lot dimensions and set-back shall conform to the requirements of the Zoning Ordinance.

(c) **Lot Depth**: Where practical, the depth of a lot shall not exceed three times the width, and shall not be less than ninety (90) feet.

(d) **Areas of Disturbance**: Each lot shall contain adequately developable areas of disturbance for development in accordance with the applicable requirements of the Zoning Ordinance. When dividing a property into lots, special consideration should be given to the preservation of "significant trees" (defined as a Specimen Tree in accordance with the Maryland Forest Conservation Act) when designing the subdivision. When delineating lot boundaries, the subdivider should determine that each lot contains adequate buildable area to develop with as little conflict with or impact on significant trees as possible. Where a subdivision site contains large stands or wooded areas (consisting of at least 10,000 square feet of concentrated or contiguous tree canopy with a minimum width of not less than fifty [50] feet.) containing significant trees, such areas shall be prioritized for preservation as common open space or bio-retention areas for stormwater management within the subdivision, where feasible. The preservation of significant trees shall be a priority consideration for any subdivision located in a Viewshed Protection or Gateway Zone, in accordance with the Zoning Ordinance.

23-43 RESIDENTIAL SUBDIVISION SETBACKS AND FENCIING ALONG RAILROADS:

In order to protect residential subdivisions from potential railroad hazard and noise impacts, each residential subdivsion that adjoins a Class I railroad right-of-way shall provide a fifty (50) foot buffer strip between each railroad right-of-way line and all residential lots. Each residential subdivision that adjoins any other railroad right-of-way shall provide a thirty (30) foot buffer strip between each railroad right-of-way line and all residential lots. Each buffer strip shall be improved to include a seven (7) foot tall security fence adjacent to the railroad right-of-way line and additional vegetative plantings at spacing that will provide an effective year-round visual screen of the required fencing.

23-44 EASEMENTS:

(a) Easements in favor of the City, at least 20 feet wide, 10 feet on each rear- and side-yard lot lines and when deemed necessary to gain adequate access to rear lot lines along side lot lines, shall be provided for utilities such as public service poles, conduits and sewer or water lines.

(b) Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way in favor of the City, conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

23-45 PUBLIC SITES AND OPEN SPACES:

The Planning Commission may require that suitable areas be dedicated for public use or reserved for the common use of all property owners within the proposed subdivision by deed covenants. In the interest of public welfare, at least five (5) percent of the area or one-half (0.5) acre, whichever is greater of every subdivision containing twenty (20) or more buildable lots, exclusive of streets, should be set aside for public use. Where the tract contains less than forty (40) acres, such reservations for open space may be combined wherever possible with similar reservations in adjoining tracts. The preservation of significant trees on the subdivision site shall be a priority consideration when determining what land will be preserved as open space, in accordance with Section 23-42 (d) above. The Planning Commission may authorize an increase in the number of permitted lots within a subdivision (and a corresponding decrease in minimum lot sizes and required rear and side yard setbacks to accommodate the additional lots), not to exceed five (5) percent, where the subdivision will provide at least ten (10) percent of the development site (exclusive of streets) as open space and will preserve all significant trees within the subdivision, as defined in Section 23-42 (d) above. A subdivision site containing less than Six (6) significant trees shall not be eligible to receive a density bonus under this provision.

Sections 23-46 through 23-49 reserved.

Article V: Required Improvements

23-50 MONUMENTS:

Monuments tied into the State Plane Coordinate System referencing NAD83 with units in survey feet shall be placed at all block and/or lot corners, angle points, points of curves in streets, and at intermediate points as shall be required and referenced on the subdivision plat in accordance with the digital mapping standards approved by the City Engineer. The monuments shall be of such material, size and length as may be approved by the City Engineer.

23-51 UTILITY AND STREET IMPROVEMENTS:

The following utility and street improvements shall be provided by the Subdivider in each new subdivision:

(a) Connection to a public water distribution system, as approved by the City Engineer.

(b) Connection to a public sewer system, as approved by the City Engineer.

(c) Underground installation of electric, gas, telephone, and CATV lines, as approved by the City Engineer.

(d) Storm sewer system and other drainage improvements, as approved by the City Engineer. All stormwater conveyance and management improvements shall be designed in accordance with the City's Stormwater Management Ordinance.

(e) **Arterial and Collector Streets**: As approved by the Planning Commission and City Engineer. The City Engineer may require the applicant to prepare a traffic impact analysis to quantify the amount of traffic generated by the proposed development where necessary to determine the required width of arterial and collector street improvements.

(f) **Minor Street**: 50 foot right-of-way, 30 foot pavement, two curb sections, two five-foot utility or street tree areas, two five-foot sidewalks when required by the Planning Commission. The City Engineer may reduce these standards to 24 foot pavement and/or two shoulders and two drainage swales with no curb sections where warranted by topographic or other local conditions. See the typical cross section drawing in Figure 1 below:

Figure 1: Minor Street Typical Cross Section

(g) **<u>Marginal Access Street</u>**: 40 foot right-of-way, 24 foot pavement, two curb sections, one five-foot utility or street tree areas, one five-foot sidewalk when required by the Planning Commission, and one six-foot utility or street tree area on the opposing side or on both sides where no sidewalk is required. The City Engineer may reduce these standards to two shoulders and two drainage swales with no curb sections where warranted by topographic or other local conditions. See the typical cross section drawing in Figure 2 below:

Figure 2: Marginal Access Street Typical Cross Section

(h) **Streets along development boundaries and streets connecting development with existing improved street system**: As approved by the Planning Commission.

(i) **Pavement base, pavement, wearing surface, sidewalks and curbs**: According to specifications of the City Engineer. Roadway pavement specifications may vary, due to the type of street, projected traffic volumes, type of use, and soil conditions.

(j) **Driveways**: As approved by the City Engineer. Proposals for private driveways within public rights-of-way are subject to site plan review in accordance with Section 8 of the Zoning Ordinance, and shall be reviewed by the City Engineer with regard to the following factors:

(1) Effect of the proposed development on future ability to construct an improved public roadway within the driveway.

(2) Compliance with City and State stormwater management/soil erosion and sediment control requirements.

(3) Ability to accommodate emergency vehicle access.

(4) Effects on adjacent properties (access, drainage, etc.).

The City Engineer shall make a recommendation regarding proposals for private driveways within public rights-of-way to the Zoning Administrator as part of the site plan review process.

(k) **Grading and centerline gradients**: Plans and profiles as approved by the City Engi neer.

(l) The City Engineer may require that the Subdivider provide an as-built drawing of such improvements certified correct by a Registered Professional Engineer.

Sections 23-52 through 23-59 reserved.

Article VI: Plat Data

23-60 PRELIMINARY PLAT SPECIFICATIONS:

The preliminary plat shall be drawn at a scale of either fifty (50) or one hundred (100) feet to one (1) inch and shall show the following on one or more sheets:

(a) The subdivision name, the names and addresses of the owner or owners, and the designer of the plat.

(b) Date, approximate north point, and horizontal scale.

(c) A vicinity sketch showing the position of the subdivision with relation to the surround ing streets and properties.

(d) The boundary line of the tract to be subdivided drawn accurately to scale with accurate linear and angular dimensions.

(e) Names of adjacent subdivisions and owners of undivided tracts.

(f) Contours at an interval of not more than five (5) feet.

(g) The location of existing and platted property lines, lot and block numbers, streets, build ing, water courses, railroads, bridges, water mains, sewers, culverts, drainpipes and other public utility easements both on the land to be subdivided and on the land imme diately adjoining.

(h) Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other non-public use, exclusive of single-family dwellings.

(i) The names, proposed location and approximate dimension of proposed streets, alleys, easements, parks and other open spaces, reservations, lot lines and building lines.

(j) Site data, including numbers of residential lots, typical lot size, and acres in parks, etc.

(k) When deemed necessary by the City Engineer, profiles of all streets showing natural and finished grades.

(l) A copy of any proposed deed restrictions or restrictive covenants.

(m) A copy of the approved conceptual stormwater management plan for the subdivision in accordance with the applicable regulations in effect at the time of the submission.

(n) A copy of the proposed sediment control plan for the subdivision in accordance with the applicable regulations in effect at the time of the submission.

23-61 FINAL PLAT SPECIFICATIONS:

The final plat shall be drawn in waterproof ink on mylar and shall be at a scale of either fifty (50) or one hundred (100) feet to one (1) inch. Where necessary, the plat may be on several sheets, accompanied by an index sheet showing the entire subdivision. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning and Zoning Commission. The final plat shall show the following:

(a) The exact boundary of the tract of land being subdivided, showing clearly the disposi tion of all portions of the tract into designated tracts, lots, streets, alleys, parks or other classifications, the exact location and width of all existing or recorded streets intersect ing the boundary of the tract being subdivided, and the names of adjoining parcels of unsubdivided land.

(b) The lines and names of all streets, alley lines, lot lines, building lines, easements and areas devoted to public use, with notes stating their purposes and lot and block numbers.

(c) An accurate location of the subdivision in reference to the real estate records of Allegany County.

(d) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing and length of every street and alley line, lot line, easement boundary line, block line and building line whether straight or curved. This shall include tangent distances, the central angle, and the radius, arcs, and chords of all curves. All linear dimensions shall be given in feet and hundredths thereof and angular dimen sions shall be of comparable accuracy within the limits of good surveying practices. The boundaries of the tract shall be determined by an accurate survey with an error of closure not to exceed one (1) in ten thousand (10,000).

(e) The accurate location, material and size of all monuments.

(f) The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon and of all property that may be reserved by deed covenants for the common use of the property owners in the subdivision.

(g) All setback lines accurately dimensioned.

(h) Protective covenants in form for recording.

(i) The title including the name of the subdivision, the City, the name of the registered engineer and/or licensed land surveyor under whose supervision the plat was prepared, the date of the plat and the north arrow.

(j) Certification of the licensed land surveyor to the effect that the plat represents a survey made by him and that all monuments shown thereon actually exist and that their location, size and material are accurately shown. Where the plat also depicts information and improvements prepared by a registered engineer, the registered engineer shall further certifiy that all such design improvements are accurately depicted.

(k) A certificate by the City Engineer, certifying that the Subdivider has complied with one of the following alternatives:

(1) All improvements have been installed in accord with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the preliminary plat.

(2) A bond or a legally acceptable guarantee under Section 23-31 (c) (4) of these regulations, or certified check has been posted, which is available to the City, equal to the estimated cost of improvements, which shall be released after a period of one year from installation of all improvements, provided the work is inspected and approved by the City Engineer at the end of such period.

The Subdivider shall provide an as-built drawing of the improvements certified correct by a Registered Professional Engineer.

(l) A certificate of ownership and dedication properly completed and signed by the owners and all other interested parties, similar in wording to the following:

"The undersigned hereby acknowledge(s) this plat and allotment to be _____ free act and deed and hereby dedicate(s) to public use as streets, playgrounds, parks and easements, forever, all areas so shown and indicated on said plat."

“The undersigned hereby further certify(ies) that all depicted proposed streets, infrastructure improvements and easements will be conveyed free and clear of all liens and encumbrances except those approved by the City.

(m) A form on the plat for the endorsement of the Planning Commission, similar to the following:

Approved by the Cumberland Planning and Zoning Commission,
on the _____ day of _____, 20_____.

Signed: _____
Chairman-Secretary

(n) A copy of the approved stormwater management plan for the subdivision in accordance with the applicable regulations in effect at the time of the submission.

(o) A copy of the approved sediment control plan for the subdivision in accordance with the applicable regulations in effect at the time of the submission.

(p) A deed of conveyance for any and all dedicated rights-of-way for any new proposed public streets and accessways within the subdivision, duly signed by the legal owners of the lands to be conveyed.

Sections 23-62 through 23-69 reserved.

Article VII: Hardships and Conditions

23-70 HARDSHIPS:

(a) Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purposes of the Comprehensive Plan, or these regulations.

(b) The Planning Commission shall determine extraordinary hardship if it finds all of the following facts in regard to the subdivision:

(1) That the land is of such shape or size, or is affected by such topographic conditions, or is subject to such title limitations of record that it is impossible or impractical for the Subdivider to comply with all of the regulations of this Ordinance.

(2) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

(3) That the hardship is not solely economic and was not caused by the property owner.

23-71 CONDITIONS:

In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

Sections 23-72 through 23-79 reserved.

Article VIII: Penalties

23-80 PENALTIES:

Any violation of any provision of this Ordinance shall be a municipal infraction and the violator shall be fined an amount of five hundred dollars ($500.00) for a single violation and one thousand dollars ($1,000.00) for any second violation. Each day a violation occurs shall constitute a separate offense. Nothing contained in this section shall be construed to limit the power or authority of the Mayor and City Council of Cumberland or its appropriate officer, agent, or employee from pursuing any other remedy available to enjoin, restrain, or recover damages and costs incurred as a result of the violation. Further, nothing contained herein shall be construed to preclude any individual, person, firm, corporation, etc., from seeking any remedy which he or it might have for any violation of this Ordinance. All fines shall be payable to the Mayor and Council which shall remit the same on a daily basis to the City Treasurer.

Sections 23-81 through 23-99 reserved.

ORDINANCE NO. 3774

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 23 OF THE CODE OF THE CITY OF CUMBERLAND TITLED 'SUBDIVISONS', TO-WIT: THE SUBDIVISION REGULATIONS OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND."

WHEREAS, Title 5 of the Land Use Article of the Annotated Code of Maryland empowers municipalities with the authority to enact and amend subdivision regulations.

WHEREAS, in accordance with the foregoing, the Mayor and City Council deem it necessary for the purpose of promoting the health, safety, morals, or general welfare of the City of Cumberland to occasionally amend its Subdivision Regulations, as local needs and changes in State or Federal laws may warrant.

WHEREAS, following the adoption of the 2013 Comprehensive Plan, City staff began a comprehensive review of the existing Subdivision Regulations for the purpose of ascertaining the changes that would be needed in order to implement the recommendations set forth in the Comprehensive Plan. The review also included an assessment of grammatical and internal consistency changes, legal wording changes and administrative interpretations of the existing Subdivision Regulations.

WHEREAS, in connection with the foregoing, Staff made revisions to the Subdivision Regulations and requested that the City of Cumberland Municipal Planning and Zoning Commission take the matter under consideration and recommend that the Mayor and City Council approve those revisions. Those revisions are set forth in the document titled SRA 14-01 – Comprehensive Rezoning Staff Report Comprehensive Subdivision Regulation Amendments, October 23, 2014 (the "Staff Report").

WHEREAS, the Municipal Planning and Zoning Commission held a public hearing on the subject matter of this Ordinance on the December 8, 2014 and, at its January 12, 2015 meeting, voted unanimously to recommend the approval of the amendments to the Subdivision Regulations set forth in the Staff Report.

WHEREAS, the Mayor and City Council held a public hearing regarding the subject matter of this Ordinance on March 17, 2015, having published notice of the time and place of the hearing together with a summary this Ordinance in the Cumberland Times-News, a newspaper of general circulation in the City of

APR - 7 2015 C

Cumberland, on March 3, 2015 and March 10, 2015, as required by Section 5-103 of the Land Use Article of the Annotated Code of Maryland.

WHEREAS, consistent with the recommendation of the Municipal Planning and Zoning Commission, the Mayor and City Council have determined that they should approve the amendments to the Subdivision Regulations as set forth in the Staff Report.

NOW, THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that Chapter 23 of the Code of the City of Cumberland, the Subdivision Regulations, is repealed it its entirety and reenacted with amendments, the reenacted version of Chapter 23 being attached hereto.

SECTION 2: AND BE IT FURTHER ORDAINED, that the City Clerk shall send a certified copy of the reenacted subdivision regulations to the Clerk of the Circuit Court for Allegany County, Maryland.

SECTION 3: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect ten (10) days from the date of its passage.

Passed this 7th day of April, 2015.

Brian K. Grim, Mayor

ATTEST:

Marjorie A. Woodring, City Clerk

1st reading: February 17, 2015
2nd reading: April 7, 2015
3rd reading: April 7, 2015
Passed 5-0
Effective: April 17, 2015
Public Hearing: March 17, 2015