

**MUNICIPAL CODE OF ORDINANCES
PART II – CUMBERLAND CITY CODE
CHAPTER 5 – BUILDINGS AND BUILDING
REGULATIONS**

**ARTICLE VI –
HOUSING CODE**

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DIVISION 1.

TITLE; LEGISLATIVE FINDINGS; PURPOSE; APPLICATIONS; DEFINITIONS

Sec. 5-196. - Title.

The provisions of this article shall constitute and shall hereafter be known as "The Housing Code of the City of Cumberland." The code may be cited as "The Housing Code" and will be referred to herein as "this code."

(Ord. No. 3597, § 2(101), 9-4-07

)

Sec. 5-197. - Legislative findings of fact.

It is hereby found and declared that there exist in the City of Cumberland, structures used for habitation, which are, or may become in the future, substandard with respect to structure, equipment or maintenance, and further that such conditions together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding constitute a menace to the health, safety, welfare and reasonable comfort of its citizens. It is further found and declared that the existence of such conditions, factors or characteristics will, if not remedied, create slum and blighted areas requiring large scale clearance, contribute substantially and increasingly to the spread of disease and crime, and to losses by fire and accident, and necessitate excessive expenditures of public funds for the prevention of or protection from the same, and further that, in the absence of corrective measures, such areas will experience a deterioration of social values, an impairment of economic values and depreciation of assessable base, and a curtailment of investment and tax revenues. It is further found and declared that the establishment and maintenance of minimum housing standards are essential to the prevention of blight and decay, and the safeguarding of public health, safety, morals and general welfare.

(Ord. No. 3597, § 2(102), 9-4-07)

Sec. 5-198. - Purpose.

The purpose of this code is to establish and maintain requirements, standards and conditions essential for the protection of the health, safety, morals and general welfare of the public and of the owners and occupants of dwellings in the City of Cumberland; to establish standards governing the condition, use, operation, occupancy and maintenance of dwellings and other structures, and the utilities, facilities and other physical components, things and conditions to be supplied to dwellings in order to make dwellings safe, sanitary and fit for

human habitation; to fix certain responsibilities and duties of owners, agents and occupants of dwellings; to provide for the licensing of certain rental units, boarding houses, multiple-family dwellings and any combination thereof; to authorize and establish procedures for the inspection of dwellings, the correction of violations of the provisions of this code and the condemnation of dwellings, so as to eliminate and to prevent all conditions in and about dwellings which are now or which may in the future become so unsafe, dangerous, unhygienic or unsanitary as to constitute a menace to the health and safety of the people; and to fix penalties for violations of the provisions of this code. This code is hereby declared to be remedial and essential to the public interest, and it is the intention of the mayor and city council that this code be liberally construed to effectuate the purposes stated above.

(Ord. No. 3597, § 2(103), 9-4-07)

Sec. 5-199. - Application.

No building, structure of premises, or any part thereof shall be used or designed, intended or maintained to be used for habitation unless it shall conform with the provisions of this code. The provisions of this code shall apply and prevail irrespective of when such building or structure shall have been constructed, altered or repaired and irrespective of any permits or licenses heretofore issued relating to the use, occupancy, construction or repair of such building or structure or to the installation or repair of the facilities thereof.

(Ord. No. 3597, § 2(104), 9-4-07)

Sec. 5-200. - Definitions.

For the purpose of this code, certain words, terms and phrases and their derivatives shall be construed and given the meanings specified in this section. Words used in the singular shall be construed to include the plural, and the plural the singular. Words used in the masculine gender shall be construed to include the feminine, and the feminine the masculine. Whenever the words "dwelling," "dwelling unit," "rental unit," "boarding house," "boarding unit" or "premises" are used in this code, they shall be construed as though they were followed by the words "or any part thereof."

Agent shall mean any person or business entity designated, for the purposes of this code, to serve as the representative of an owner that is not a resident of Allegany County, Maryland.

Alley shall mean any way less than thirty (30) feet in width on which dwellings do not front.

Approved shall mean accepted as satisfactory by the appropriate city authority as being in accordance with the requirements of this code, unless otherwise noted.

Areaway shall mean a subsurface space adjacent to a building for affording access to or for lighting or ventilating the basement or a cellar of said building.

Basement shall mean the usable portion of a building immediately below the main entrance story. No building shall have more than one (1) basement.

Boardinghouse shall mean any house, building or combination of buildings, or any portion thereof, which is used or designed to be used, with or without meals, where lodging is provided for two (2) or more persons who are not members of the operator's family, whether for consideration or not, and shall not include hotels, motels or lodging houses.

Ceiling shall mean the surface suspended from or attached to the underside of floors or roofs which does not form a structural part of a floor or roof, or shall mean the underside of exposed floor or roof construction.

Ceiling height shall mean the clear distance between the floor and the ceiling directly above.

Cellar shall mean the lowest space or spaces in a building located under the basement story.

Cross connection shall mean any connection, either direct or indirect, that will permit or may possibly permit the flow of water of unknown or questionable safety, sewage, other liquids, gases or mixtures into a piping system, or receptacles containing or intended to contain potable water.

Director shall mean the individual holding the position wherein he/she is authorized by the city administrator to oversee the department of community development.

Dwelling shall mean a house or building or portion thereof which is occupied in whole or in part as a home, residence or sleeping place of one (1) or more human beings, either permanently or transiently.

Dwelling unit shall mean a room or group of rooms forming a single habitable unit occupied by one (1) or more persons with facilities which are used or intended to be used exclusively by the occupants of such unit for living, sleeping, eating and cooking.

Existing shall mean in existence at the time of passage of this code, or any building or other structure erected under a permit issued before the passage of this code.

Exit, in general, shall mean the way out from any point in a building along a continuous and unobstructed line of travel, which ultimately leads to a street or other public thoroughfare.

Extermination shall mean the extinction of insects, rodents, vermin or other pests.

Family shall mean a person living alone, or two (2) or more persons living together as a housekeeping unit, with separate identity from other persons or groups in the same structure. *Fireproofed* shall mean protected to resist the damaging effects of fire in accordance with the requirements of the code for such construction.

Flue shall mean an enclosed pipe, duct or passageway used only for the transmission of heat of the products of combustion.

Habitable room shall mean a room used or intended to be used for living, sleeping, eating or cooking. Storerooms, bathrooms, toilet rooms and closets, halls or spaces in attics or in basements are not habitable rooms.

Hotel/motel shall mean any business that is required to pay an occupancy tax to the State of Maryland.

Infestation shall mean the presence, within or around a dwelling, of large numbers of insects, rodents, vermin or other pests.

Land installment contract shall have the same meaning as that contained within Md. Real Prop. Code Ann. § 10-101(b), as amended from time to time, which, as of the effective date of the enactment of this code, provides as follows:

- "(b) Land installment contract.- "Land installment contract" means a legally binding executory agreement under which:
- (1) The vendor agrees to sell an interest in property to the purchaser and the purchaser agrees to pay the purchase price in five (5) or more subsequent payments exclusive of the down payment, if any; and
 - (2) The vendor retains title as security for the purchaser's obligation."

Lavatory shall mean a fixed wash bowl equipped with plumbing.

Lessee shall mean the holder of a contract for the possession and profit of lands and tenements for a fixed term, for life, or at will.

Licensee shall mean the holder of a license issued under division 3 of this article.

Lot shall mean a parcel or portion of land now or hereafter laid out and included within certain fixed lines.

Maintenance of a building, structure, appliance, apparatus or equipment shall mean the way or manner any such building, structure, appliance, apparatus or equipment is serviced, repaired or altered to perpetuate the use or purpose for which such building, structure, appliance, apparatus or equipment was originally intended.

Means of egress shall mean any doorway, passageway, stairway or other means of escape in exits from a building or other structure.

Multiple-family dwelling shall mean any house, building, or combination of buildings, including groups of detached buildings comprising a single apartment project under a single ownership and management, or any portion of any building, which is used or designed to be used for:

- (1) More than two (2) dwelling units; or
- (2) Two (2) dwelling units and any other occupancy such as commercial or office occupancy, and shall include all apartment houses, garden apartments and apartment hotels.

Occupant shall mean and include the person who actually uses or has possession of the premises.

Or any combination thereof as used in division 8 of this code shall mean any combination of boarding units and dwelling units totaling three (3) or more in number.

Owner shall mean any person, firm, corporation, limited liability company, limited liability partnership, limited partnership, partnership or other business entity, guardian, conservator, receiver, trustee, executor, personal representative, judicial officer, or any other person who, alone or jointly or severally with others, owns, holds, or controls the whole, or any part, of the freehold or leasehold title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, and shall include in addition to the holder of legal title, any vendee in possession thereof, but shall not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

Person shall mean any individual, firm, corporation, limited liability company, limited liability partnership, limited partnership, partnership or other business entity, guardian, conservator, receiver, trustee, executor, personal representative, or any other judicial officer.

Premises shall mean a lot or group of lots including any building or group of buildings or other structures or parts thereof, which may be situated thereon and considered as a unit devoted to a certain use or occupancy, including the necessary and customary accessory

buildings and other open spaces required or used in connection with such use of a lot or group of lots.

Public shall mean open to common use without reference to ownership.

Public hallway shall mean hallway accessible to the public.

Rental dwelling unit shall mean any dwelling unit or boarding unit located in the City of Cumberland which is rented, leased or let, whether for consideration or not, by the owner of said unit to one (1) or more tenants for occupancy as a residence. A rental unit shall not include units located within a permitted hotel motel, bed and breakfast, nursing home or hospital. Rental units shall include assisted living facilities, group homes, and boardinghouses.

Roofing shall mean the shingles, tiles, composition, sheet metal covering or other waterproof protection on top of a roof.

Shall shall mean mandatory wherever used in this code.

Skylight shall mean any window, cover or enclosure, or any combination of them, placed above a roof for the admission of light or air.

Tenancy shall mean a part of a building occupied by one (1) tenant.

Tenant shall mean a person occupying or using a rental dwelling unit or any part or parts thereof owned by another with the express written or oral permission of said owner.

Toilet room shall mean an enclosed space containing a water closet or urinal and lavatory basin.

Water resistant (as to floors) shall mean a clean, smooth floor, without cracks or holes, made of terrazzo, ceramic, asphalt or rubber tile, smooth concrete, linoleum or other similar material, or made of wood, and, if made of wood, then with tightly fitting joints, covered with varnish, lacquer or other similar water-resistant coating.

(Ord. No. 3597, § 2(105), 9-4-07)

Secs. 5-201—5-220. - Reserved.

DIVISION 2.

INSPECTION OF DWELLINGS, DWELLING UNITS, BOARDING UNITS AND PREMISES

Sec. 5-221. - Authority to inspect.

The director or a duly authorized representative of the director, is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, boarding units and premises located within the City of Cumberland in accordance with the provisions of this code. Where the director has probable cause to believe that a dwelling, dwelling unit, or boarding unit and its premises are in a condition which would violate this article, the director may apply to either the Circuit Court or District Court of Allegany County, Maryland, for an administrative search warrant.

(Ord. No. 3597, § 2(201), 9-4-07)

Secs. 5-222—5-230. - Reserved.

DIVISION 3.

NOTICE; EMERGENCIES; CORRECTION OF VIOLATIONS; COLLECTIONS AND LIENS; PENALTIES; REGISTRATIONS; LICENSING

Sec. 5-231. - Notice and service.

Whenever the director determines that there has been a violation of any provisions of the code or of any rule or regulation adopted pursuant hereto, he or his designated agent shall give notice of such alleged violation to the person or persons responsible therefore as hereinafter provided. Such notice shall:

- (1) Be set forth in writing and mailed to the last known address of the owner and agent, if applicable, and posted on the subject premises;
- (2) Set forth the character of the violation with reference to the applicable provisions of this code; and
- (3) State the period of time for the performance of any act it requires.

Any citations for violations of the code shall be served in accordance with the provisions of Md. Code Ann., Art. 23A § 3(b)(3), as amended from time to time. Citations for violation of the code may be issued in the event the violation is not cured within the time frame set forth in the notice previously referenced in this section.

(Ord. No. 3597, § 2(301), 9-4-07)

Sec. 5-232. - Emergencies.

Whenever, in the judgment of the director, it is determined that an actual emergency exists which constitutes a public health or safety hazard requiring immediate action, he shall proceed forthwith to order such action necessary to rectify the condition. If necessary to protect the public health or safety, the director may order that the premises be vacated, repaired or demolished and further that it shall not be reoccupied until the corrective action required by the order is taken. Any such order or orders shall be effective immediately or in the time and manner prescribed, notwithstanding any other provision of this code to the contrary.

(Ord. No. 3597, § 2(302), 9-4-07)

Sec. 5-233. - Correction of violations.

Whenever the director determines that a violation of this code has transpired, he shall send the notice required by section 5-231 of this code directing that that violation be corrected. If the violation is not corrected within the time frame specified in the said notice, the director, individually or through his officers, agents, employees or contractors may take such action as

is necessary to correct the violation and the owner shall be responsible for the costs associated therewith. The director shall also have the right to take such other and further actions as a result of the violation as are provided for under the terms of this code and applicable law.

The director shall develop a time schedule that shall indicate the time period in which an owner shall be allowed to make correction based on life and safety concerns. A follow-up inspection shall be required to ensure that the corrections have been made.

(Ord. No. 3597, § 2(303), 9-4-07)

Sec. 5-234. - Notice before corrections of violations.

Before proceeding to abate any violations of the code in accordance with the terms of [section 5-233](#) of this code, the director shall mail and post notice of the violation in the manner prescribed by [section 5-231](#) hereof.

(Ord. No. 3597, § 2(304), 9-4-07)

Sec. 5-235. - Liability for expenditures.

In any and all cases where the director proceeds to enforce any provision of this code, including but not limited to the elimination of any safety, health, or fire hazard or any blighting or unsanitary condition, or the removal of any abandoned or illegally constructed building, structure, or other object, or the abatement of any violation of this code and, in connection therewith, furnishes, or causes to be furnished, any labor, supervision, equipment, or materials, or performs or causes to be performed any inspection, work or operation to eliminate any such hazard or condition, or to remove any such building, structure, or other object, or to abate any violation of the code, the entire amount of his expenditure, together with any and all costs incidental thereto and any penalties that may have accrued, shall be owed to the city by the owner of the subject property. In the event the owner fails to pay said costs within thirty (30) days of written demand therefore, they shall be charged against the land upon which the building, structure, or other object stands or stood as a municipal lien. Additionally, the City of Cumberland may proceed to seek judgment against the owner for the said costs and it may further seek such other and further remedies as are available to it under applicable law, in either of which cases, the owner of the subject property shall be liable for the city's attorneys' fees, court costs and litigation expenses.

(Ord. No. 3597, § 2(305), 9-4-07; Ord. No. 3680, § 1, 12-7-10)

Sec. 5-236. - Permits and certificates.

Except as otherwise provided for in this code and applicable law, the owner shall be responsible to obtain all the necessary permits, and certificates which are required for the use, occupancy, alteration, construction, installation or repair, in or about the premises, required by the ordinances of the City of Cumberland and the State of Maryland, or any of the rules and regulations promulgated under any of them.

(Ord. No. 3597, § 2(306), 9-4-07)

Sec. 5-237. - Licensing of rental dwelling units.

- (a) It shall be unlawful for the owner(s) of any rental dwelling unit to permit occupancy of any rental dwelling unit by another unless said rental unit is currently licensed by the City of Cumberland and said license has not been denied, revoked, or suspended.
- (b) Further, it shall be unlawful for the owner(s) of any rental dwelling unit to permit occupancy of any rental dwelling unit by another without providing proof of compliance with applicable Maryland Department of Environment (MDE) Regulations, including, but not limited to, providing the certification under the penalties of perjury required by Ann. Code of Md. art. 24, § 19-103.
- (c) By January 1, 2008, and each July 1 annually thereafter, every owner of a rental dwelling unit, whether occupied or vacant, shall obtain a license from the director for each unit for which he/she, rents, leases, or lets, whether for consideration or not, on a form to be provided by the director.
- (d) For each licensed unit there shall be an annual licensing fee, determined by the mayor and city council, to be paid at the time the owner applies for the annual license. All owners whose rental units are boarding units shall pay a license fee in the same amount designated by the mayor and city council for each boarding unit.
- (e) Any person becoming an owner of a rental unit shall apply for a rental license on the date of the property transfer; however, the new owner will not have to pay the license fee until the next July 1 licensing date if the previous owner licensed the property and paid the licensing fee for the current year.
- (f) License fees paid shall not be refunded.

- (g) The application for the license shall be completed on forms developed by the director. At a minimum, the application for the license shall require the production of the following information:
- (1) A description of the rental by street number, unit or otherwise, in such manner as to enable the director to readily identify the same.
 - (2) The name and address of the owner of record and agent, when applicable. If the mailing address is a post office box, street addresses shall also be required.
 - (3) An owner's and or agent's signature will be required on the licensing application stating that they have knowledge and an understanding of the City of Cumberland's most recent housing code. See [section 5-240](#) for more information.
 - (4) If the owner is required to appoint an agent, the agent's consent to serve as such shall be duly noted on the form and the agent shall certify that he or she understands the agent's obligations as required by this code and accepts the same. Further, if the agent is a business entity, the application shall require that the street address and mailing address of the agent's resident agent in the State of Maryland.
- (h) Owners of rental dwelling units who do not reside within Allegany County, Maryland, shall be required to appoint an agent or agents(s) for each rental dwelling unit owned. An agent may serve as the agent of the owner for multiple rental dwelling units. The agent shall serve as the owner's local representative for all purposes related to this code. The agent shall be responsible for the management, maintenance, operation, and rental of an owner's rental dwelling unit(s). Agents must reside within Allegany County, Maryland or have principal offices located within Allegany County, Maryland. In designating an agent as such in a license application, the owner authorizes the agent to accept service of process on his behalf for all purposes related to this code.
- (i) Every licensed dwelling unit shall be inspected on an occupancy basis. No occupancy inspection shall be required if an occupancy inspection occurred within twelve (12) months from the date of the most recent occupancy inspection. After twelve (12) months, an occupancy inspection shall be required prior to re-occupancy of the dwelling unit. In addition, every licensed rental dwelling unit shall comply with the Maryland Lead Law and complete any required lead inspection(s) prior to occupancy. All inspection documentation must be maintained by the owner and/or agent and be available for review by the City of Cumberland upon request.

- (j) The director must be notified within ten (10) days of any change in the designated agent.
- (k) In the event of a complaint, the director or his/her designee shall have the authority to inspect a rental dwelling unit and the owner and/or agent of a rental dwelling unit shall make said rental dwelling unit available for inspection by the director or his/her designee at all reasonable times.

Notwithstanding the foregoing, the owner, agent or tenant of any rental dwelling unit subject to this article may request inspections of said unit(s) at any time, the fee for said inspections to be set by order of the mayor and city council, which request shall be in writing, and signed by the person submitting the request, and which shall set forth the specific complaint the individual making the request has with the unit(s) and which such request shall further set forth what attempts have been made to resolve the dispute between the parties. Except for conditions that present an imminent danger to the health or safety to occupants of a rental dwelling unit, before accepting such a complaint, the director or his designee shall require the tenant to provide documentation showing that the landlord was provided with a written request for the correction of the conditions which are the subject of the complaint no less than ten (10) days in advance of the date of the presentation of the complaint. A copy of the written request shall serve as sufficient documentation for this purpose.

- (l) Any owner of a rental dwelling unit liable to pay the license fee imposed by this section who fails to pay the same within thirty (30) days from the time it becomes due and payable shall be subject to a municipal infraction. The terms of this paragraph shall apply to all such license fees due on or before June 30, 2013.

Effective with respect to all license fees due on or after July 1, 2013, an owner of a rental dwelling unit shall pay the license fee imposed by this section no later than August 31. The license fee shall double if paid after August 31 but on or prior to October 31 and it shall quadruple if paid after October 31 but on or prior to December 31. Any owner of a rental dwelling unit who shall fail to pay the aforesaid license fee on or prior to the December 31 following its due date shall be guilty of a municipal infraction and subject to the penalties provided for under [section 5-245](#).

(Ord. No. 3597, § 2(307), 9-4-07; Ord. No. 3659, §§ 1, 2, 12-22-09; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-238. - Denial, revocation or suspension of license.

A rental dwelling unit license may be denied, revoked or suspended in whole or in part at any time by the department of community development if the owner and/or agent fails to comply with any section of this article or after receipt of a valid complaint, the owner fails to eliminate violations of the housing code identified during any inspection within the time ordered in the notice. The denial, revocation or suspension shall remain in effect until the owner has remedied said violations, the department of community development has verified compliance through a follow up inspection, and the owner and/or his agent has attended mandatory training set forth by the mayor and city council. Further, denial, revocation or suspension of a rental dwelling unit license shall be in addition to and not in substitution of the penalties set forth in [section 5-245](#).

(Ord. No. 3597, § 2(308), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-239. - Registration of agents.

Where a rental dwelling unit agent is required by the housing code, said agent shall be registered with the department of community development on a form provided by the director. A resignation or change in agent must be reported to the department of community development by the owner within ten (10) days of such action. Failure of the owner to provide an agent as required shall be cause for suspension of owner's rental license for all affected rental dwelling units.

(Ord. No. 3597, § 2(309), 9-4-07)

Sec. 5-240. - Training.

Upon adoption of the housing code, owners or agents, where applicable, may attend a City of Cumberland approved landlord training course. The City of Cumberland may provide training that owners and/or agents can voluntarily attend to foster an understanding of the most recent housing code adopted.

(Ord. No. 3597, § 2(310), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-241. - Responsibility for compliance with code provisions.

- (a) *Responsibility of owners and agents.* Any person who is either an owner or agent of a property subject to this code shall be responsible for compliance with all of the provisions of this code. No owner or agent shall be responsible for compliance with [division 7](#) of this code, "Responsibilities of Occupants," unless that person also is an occupant of the property. Where, such as in [division 8](#), this code states a responsibility to be that of the owner, it shall also be that of any person who is an agent of the property in his behalf. An owner shall be held liable for all violations of this code, in connection with any land, buildings, structure, or matter, or thing owned or operated by him/her, and for any expenses incurred by the mayor and city council pursuant to sections [5-232](#), [5-233](#), [5-235](#), or [5-237](#) of this code.

- (b) *Responsibility of business entities' officers, directors, etc.* Whenever a corporation, limited liability company or other business entity violates any of the provisions of this code, such violation also shall be deemed to be that of the individual directors, officers, partners and members, as applicable and the director may pursue such remedial action, including, but not limited to, the issuance of a citation for a municipal infraction against such directors, officers, partners and members in their capacities as individuals.

(Ord. No. 3597, § 2(311), 9-4-07)

Sec. 5-242. - Nonresident owners.

- (a) When any person, who:
- (1) Is not a Maryland corporation or a Maryland partnership, general or limited, located in Allegany County, Maryland, nor a resident of Allegany County, Maryland; who
 - (2) Also is an owner of property or properties containing any occupied residential unit used for other than his personal residence, is determined by the director to have failed to comply with any order for the correction of violations or for the performance of any other act that may be required, issued by the director pursuant to this code, with regard to any property subject to this code, within the time and manner prescribed by said order, then the director, subject to the provisions of this code, may proceed to execute the order through his officers, agents, employees, or contractors by making such repairs, or taking such other actions as the director finds to be necessary to correct said violation or violations in occupied residential units and/or public areas within or about any property containing any occupied residential unit(s). Entry for the making of such repairs, or the taking of such other action, shall be made only with the consent of a party with apparent control of the subject premises, or by order of the court.
- (b) The provisions of subsection (a) above shall not apply to any person who, within sixty (60) days of the effective date of this article [September 4, 2007], or within ten (10) days of the service of any notice of violations or other order issued pursuant to this code, shall:
- (1) Appoint and retain an agent as defined in section 5-200 to manage and/or operate any property or properties subject to this code a full-time resident of Allegany County, Maryland, or Maryland corporation or

Maryland partnership, general or limited, located in Allegany County, Maryland; and

- (2) Notify in writing the director of such appointment, stating the name and address of the appointee, provided also that he shall similarly notify the director within ten (10) days of any change or termination of said appointment or retention. Thereafter, if the agent of any property or properties shall fail to comply with any order for the correction of violations or for the performance of any other act that may be required, issued by the director pursuant to this code, with regard to any property subject to this code, within the time and manner prescribed by said order, then the director, subject to the provisions of this code may proceed to execute the order through his officers, agents, employees, or contractors by making such repairs or taking such other actions as the director finds to be necessary to correct said violation or violations in occupied residential units and/or public areas within or about any property containing any occupied residential unit(s). Entry for the making of such repairs, or the taking of such other action, shall be made only with the consent of a party with apparent control of the subject premises, or by order of the court.

(Ord. No. 3597, § 2(312), 9-4-07)

Sec. 5-243. - Notice to owners of responsibility under section 5-242.

Whenever the director determines that there is reason to believe that an owner of any property is subject to the requirements of [section 5-242](#), he may cause to be sent to such person by certified mail a notice, in such form and manner as he shall determine, that said person is believed to be an owner subject to [Section 5-242](#) of this code. If said person fails to respond in writing to the director within fifteen (15) days of the issuance of this notice, stating grounds why he is not subject to the requirement of [section 5-242](#), he shall then be liable to the same extent as any owner subject to that requirement for any costs incurred by the mayor and city council for work done pursuant to [section 5-242](#), and the director, his officers, agents, employees and contractors shall be free from any liability which may arise if said person is not in fact otherwise subject to the requirement of [section 5-242](#).

(Ord. No. 3597, § 2(313), 9-4-07)

Sec. 5-244. - Means of appeal.

Application for appeal: Any person affected by a decision of the director or a notice or order issued under this code shall have the right to appeal to the board of administrative appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly

interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(Ord. No. 3597, § 2(314), 9-4-07)

Sec. 5-245. - Penalties.

Any violation of any provision of this article 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. Nothing contained in this subsection 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, et cetera, from seeking any remedy which he or it might have for any violation of this article.

(Ord. No. 3597, § 2(315), 9-4-07)

Secs. 5-246—5-260. - Reserved.

DIVISION 4.

STANDARDS FOR EQUIPMENT AND FACILITIES

Sec. 5-261. - Water supply.

The water supply system of every building uses in whole or in part for dwelling purposes shall be furnished from the City of Cumberland public water system. The water supply system shall not be cross connected to any other water system or a sewerage system or any other method of contamination. Separate water service is required for all units in which the tenant is receiving a water bill. When service is not separated, the owner is responsible for the water bill. [It is the] owner's responsibility to assure that water is connected to utilities.

(Ord. No. 3597, § 2(401), 9-4-07)

Sec. 5-262. - Sinks.

Every dwelling shall contain a sink in good working condition which shall be properly connected to both hot and cold water lines and to the public sanitary sewer.

(Ord. No. 3597, § 2(402), 9-4-07)

Sec. 5-263. - Toilet facilities.

Every dwelling unit shall contain within a room which affords privacy, a water closet and a lavatory basin in good working condition which shall be properly connected to the public sanitary sewer. Such water closet and lavatory basin shall be within and accessible from within the dwelling unit. The floor of such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions.

(Ord. No. 3597, § 2(403), 9-4-07)

Sec. 5-264. - Bathing facilities.

Every dwelling unit shall contain within a room which affords privacy, a bathtub or shower in good working condition which shall be properly connected to both hot and cold water lines and to the public sanitary sewer. Such bathing facilities shall be within and accessible from within the dwelling units. The floor of such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions.

(Ord. No. 3597, § 2(404), 9-4-07)

Sec. 5-265. - Water heating facilities.

Every dwelling or dwelling unit shall have supplied water heating facilities which are properly installed, operated and maintained in safe and good working condition and are properly connected to the bathtub or shower, sink and lavatory basin, as required in this code. Such water heating shall be capable of automatically heating water to a temperature of one

hundred twenty (120) degrees Fahrenheit and capable of meeting normal demands at every required outlet, even though the dwelling's heating facilities are not in operation. All gas-fired water heaters shall be vented to the outside and cannot be installed in bathrooms or sleeping rooms.

(Ord. No. 3597, § 2(405), 9-4-07)

Sec. 5-266. - Plumbing; installation and maintenance.

All plumbing, water closets and other plumbing fixtures in every dwelling or dwelling unit shall be installed and maintained in good working condition and repair and in accordance with the requirements of this code and of the applicable plumbing code.

(Ord. No. 3597, § 2(406), 9-4-07)

Sec. 5-267. - Kitchen and kitchen facilities.

- (a) Every dwelling unit shall contain a room or space for the preparation and cooking of food which shall include space for a stove or other cooking facilities, kitchen sink, dry food storage, and counter top surface having a durable, washable, and impervious surface with a minimum surface area of four (4) square feet.

- (b) The use of gasoline stoves or other similar fuel burning appliances for cooking is prohibited.

(Ord. No. 3597, § 2(407), 9-4-07)

Sec. 5-268. - Garbage, rubbish and ashes.

The owner and/or tenant of every dwelling unit shall provide for trash removal in accordance with current city regulation. In addition, for every building containing three (3) or more dwelling units, the owner shall provide, in a location accessible to all dwelling units, an adequate number of receptacles into which garbage, rubbish and ashes from the dwelling unit receptacles may be emptied for storage between days of collection. Receptacles shall be made of metal or other sturdy material, watertight and provided with handles and tight covers. All such receptacles shall be maintained at all times in good order and repair.

(Ord. No. 3597, § 2(408), 9-4-07)

Sec. 5-269. - Egress.

- (a) Every dwelling unit and boarding unit (room) shall have safe, unobstructed means of egress leading to safe and open space at ground level as required by the laws and ordinances of the City of Cumberland.

(Reference: NFPA 1, Uniform Fire Code, 2003 Edition; N.F.P.A. [101](#), Life Safety Code, 2003 Edition; IRC, International Residential Code, 2006 Edition; IBC, International Building Code, 2006 Edition, Egress Chapters 1 and 2. All references are subject to current updates, revisions, and newly adopted codes.)

- (b) All doors in a required means of egress shall be arranged to be opened readily from the egress side whenever the building is occupied. Locks, if provided shall not require the use of a key, a tool, or special knowledge or effort for operation from the egress side.

(Ord. No. 3597, § 2(409), 9-4-07)

Sec. 5-270. - Fireproofing and fire protection.

- (a) Every building used in whole or in part for dwelling purposes shall be provided with the fireproofing required by the laws and ordinances of the City of Cumberland. Such fireproofing shall include, but not be limited to, the separation between occupancies, the enclosure of furnace rooms and the enclosure of stairwells, where applicable. All required fireproofing shall be maintained in a good state of repair. All fire doors shall be maintained in an operable condition and shall be equipped with approved self-closing devices. All residential single-family and multifamily dwellings must comply with NFPA #101 Life Safety Code and Article 38A of the Maryland Fire Laws.
- (b) All requirements for one- and two-family dwellings shall be in accordance with the International Residential Code's current adopted edition. All requirements for new and existing residential multiple family dwellings, lodging and boarding houses, hotels and residential board and care shall be in accordance with the Maryland State Fire Prevention Code, COMAR 29.06.01, and the Annotated Code of Maryland, Title 9, Fire Protection & Prevention, Subtitle 1 and 2.
- (c) Townhouses shall meet the requirements of the Maryland State Fire Prevention Code and the Annotated Code of Maryland, Title 9, where applicable.

(Ord. No. 3597, § 2(410), 9-4-07)

Sec. 5-271. - Fire extinguishing equipment.

All fire extinguishing equipment required by the laws, ordinances and regulations of the City of Cumberland and Maryland State Fire Prevention Code shall be provided and maintained in an operable condition.

(Ord. No. 3597, § 2(411), 9-4-07)

Sec. 5-272. - Fire alarm systems.

- (a) All fire alarm systems required by the laws, ordinances and regulations of the City of Cumberland and required in accordance with the State of Maryland shall be provided and maintained in an operable condition.

- (b) At least a minimum of one (1) D.C. powered smoke detector is required to be properly installed and in operating condition in every sleeping room in addition to Maryland Fire Code.

(Ord. No. 3597, § 2(412), 9-4-07)

Sec. 5-273. - Exit signs and emergency lighting.

Emergency lighting and exit signs equipped with battery backup are required in all common hallways wherein a total of five (5) units are present. All units should have exit signs as required by state laws and ordinances. All emergency equipment shall be provided and maintained so as to be clearly visible at all times when the building is occupied.

(Ord. No. 3597, § 2(413), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-274. - Ventilation and light.

Every habitable room in a dwelling or dwelling unit shall contain a window or windows opening to the outside air, and the total glass area of such window or windows shall not be less than eight (8) percent of the floor area of such room. All window sashes shall be glazed and provided with suitable hardware, and shall be made to open freely to the extent of not less than four (4) percent of the floor area of such room.

(Ord. No. 3597, § 2(414), 9-4-07)

Sec. 5-275. - Mechanical ventilation.

A blind (windowless) kitchen, bathroom or toilet room must be provided with artificial light and mechanical ventilation if a window cannot be provided to open directly to the outside air.

(Ord. No. 3597, § 2(415), 9-4-07)

Sec. 5-276. - Window opening into shafts or courts.

A window opening into a shaft or covered by a skylight shall not be construed as opening directly to the outside air unless the shaft complies with the requirements of the building code for inner courts serving windows. Inner courts of minimum permissible dimensions which serve required windows shall be painted with white or other reflective paint.

(Ord. No. 3597, § 2(416), 9-4-07)

Sec. 5-277. - Lighting of halls, stairs and exterior pathways.

Every hallway, stairway, and ingress and egress pathway shall be adequately lighted. Adequate lighting can be provided by one (1) of the following:

- (1) A three-way switch;
- (2) Motion-activated sensors to control the lighting system; or
- (3) Photo cell.

(Ord. No. 3597, § 2(417), 9-4-07)

Sec. 5-278. - Electrical service.

Every dwelling unit and all public and common areas shall be supplied with adequate electric service, outlets and fixtures which shall be properly installed, shall be connected to the source of electric power in accordance with the National Electric Code (NEC) and in a manner prescribed by the ordinances, rules and regulation of the City of Cumberland and Allegheny Power.

(Ord. No. 3597, § 2(418), 9-4-07)

Sec. 5-279. - Electrical outlets.

One (1) duplex receptacle is required for every fifty (50) square feet of floor space in a room and spaced at least six (6) feet apart from one another. Receptacles closer than six (6) feet will be considered one (1) receptacle. No extension cords shall be used as permanent outlets.

(Ord. No. 3597, § 2(419), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-280. - Electrical fixtures.

At least one (1) supplied ceiling or wall-type electric fixture, or switched receptacle properly installed in every toilet room, bathroom, laundry room, furnace room, public hall, basement or any other area in which artificial light is required for the safety and welfare of the occupants. All installed electrical outlets in the bathroom, kitchen at countertop height unless outlet is for a dedicated appliance, unfinished basement areas, garages, and exterior outlets must be of the ground-fault protected type (GFI), and all others where found to be required according to applicable code(s). Floor receptacles must be UL listed floor receptacles.

(Ord. No. 3597, § 2(420), 9-4-07)

Sec. 5-281. - Kitchen electrical outlets.

At least two (2) separate duplex convenience outlets shall be properly installed in each kitchen and shall be located as to appropriately supply adequate power for refrigeration, cooking, and other electrical appliances. This is in addition to a permanently installed light fixture. All outlets, when added or replaced, must be of the ground-fault type (GFI) where found to be required, according to applicable code(s).

(Ord. No. 3597, § 2(421), 9-4-07)

Sec. 5-282. - Heating facilities.

Every dwelling, every dwelling unit and every boarding unit (room), shall be provided with heating facilities which are properly designed, installed and balanced or adjusted, are maintained in good and safe working condition, and which are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at the center of the

room and at a distance of three (3) feet above the floor level. Either central or permanently installed space heating facilities may be used. All heating facilities shall be turned on and fully operational throughout the winter heating season, defined as beginning no later than October 1 and ending no sooner than May 1.

(Ord. No. 3597, § 2(422), 9-4-07)

Sec. 5-283. - Central heating units and central hot water heating systems.

Every central heating unit and central hot water heating unit shall:

- (a) Have every duct, pipe or tube free of leaks and functioning properly to provide an adequate amount of heat or hot water to the intended place of delivery;
- (b) Be provided with proper seals between sections of heat ducts;
- (c) Be properly connected to an electric circuit of adequate capacity in an approved manner, if electrical power is required; and
- (d) Be provided with all required automatic or safety devices and be installed and operated in the manner required by the laws, ordinances and regulations of the City of Cumberland and the State of Maryland.
(Reference: NFPA 1, Uniform Fire Code, 2003 Edition; N.F.P.A. 101, Life Safety Code, 2003 Edition; IRC, International Residential Code, 2006 Edition; IBC, International Building Code. All references are subject to current updates, revisions, and newly adopted codes.)
- (e) Outdoor furnaces and outdoor hot-water heating systems designed to be utilized under outdoor conditions are prohibited.

(Ord. No. 3597, § 2(423), 9-4-07)

Sec. 5-284. - Space and hot water heating units.

Every space heating unit or hot water heating facility shall:

- (a) Not use gasoline or other similar highly flammable liquid fuel;
- (b) Not be of portable type using solid, liquid or gaseous fuel;
- (c) Be properly connected to an approved flue or vent unless it is an electrical appliance or it is approved for vent free operation and properly installed to manufacturers installation instructions. If proper installation

involves the opening of a window, vent free operation will not be approved, and unit must be vented.

- (d) Be so located or protected as to prevent any overheating of adjacent combustible material;
- (e) If employing electricity, be connected to a circuit of adequate capacity.
- (f) Be provided with all required automatic or safety devices, to include discharge line from relief valve to approximately six (6) inches from the floor, and be properly operated. Kerosene space heaters are unacceptable in tenant occupied units.

Fuel Gas appliance installation and operation must comply with the National Fuel Gas Code unless otherwise noted.

Electrical installations and systems must comply with the National Electric Code unless otherwise noted.

Electric portable heaters are allowed, but not as a primary heat source.

(Ord. No. 3597, § 2(424), 9-4-07)

Secs. 5-285—5-300. - Reserved.

DIVISION 5.

REQUIREMENTS RELATING TO SAFETY AND SANITARY MAINTENANCE

Sec. 5-301. - Sanitary maintenance.

Every dwelling and every part thereof shall be kept clean and free from any accumulation of dirt, filth, rubbish, garbage or similar matter and shall be kept free from and effectively protected against vermin or rodent infestation. All yards, lawns and courts shall similarly be clean and free from rodent infestation.

(Ord. No. 3597, § 2(501), 9-4-07)

Sec. 5-302. - Good repair and safe condition.

Every building and all parts thereof used or occupied as a dwelling shall, while in use or at any time when the lack of maintenance affects neighboring property, be kept in good repair, in safe condition, and fit for human habitation. The roof and walls of all such buildings shall be maintained so as not to leak, and all means of draining water there from shall be maintained so as to not adversely affect the adjacent property owner.

(Ord. No. 3597, § 2(502), 9-4-07)

Sec. 5-303. - Standards for good repair and safe condition.

Good repair and safe condition shall include but is not limited to the following standards:

(a) *Exterior.*

- (1) Roofing shall be provided to prevent the entrance of moisture and shall be maintained by renewal, repair, waterproofing or other suitable means.
- (2) Gutters and downspouts shall be provided to properly collect, conduct and discharge the water from the roof and not adversely affect adjoining properties.
- (3) Every foundation, wall, floor, ceiling, window, door and hatchway shall be maintained so as to be reasonably weatherproof and waterproof.
- (4) Every stairway, including inside stairs with three (3) or more risers must have a handrail.
- (5) Stairs, porches and appurtenances thereto shall be kept in sound condition and good repair.
- (6) Any walkway, terrace, or porch over thirty (30) inches in height from ground level must have a handrail.
- (7) Exterior wood and ferrous metal surfaces shall be protected from the elements against decay by paint or other protective coating.
- (8) Dwelling structure must have the appropriate building address permanently affixed, be of a contrasting color, and visible from the street as per Ordinance

No. 3542. Where a structure is not visible from the street, a second address is required to be placed within five (5) feet of the primary entrance to the property.

- (9) Entry door into the structure shall be constructed of a durable, exterior grade material.
- (10) Exterior property areas of all premises shall be kept free of any object, material, or condition, including abandoned or immobile motor vehicles, which may create a health, accident or fire hazard, or which is a public nuisance.
- (11) All sheds, barns, garages, fences, and other appurtenant structures on premises shall be maintained in good repair, free from health, accident or fire hazards or they shall be removed from the premises.
- (12) Yard spaces and other open area appurtenant to a dwelling shall be graded, paved or otherwise constructed to properly drain water around or away from premises.
- (13) Windows shall be easily openable, shall have panes without cracks or holes, and the sash shall fit properly.
- (14) High grass and noxious weeds shall be destroyed and removed as provided by the laws and ordinances of the City of Cumberland.

(b) *Interior.*

- (1) Every supplied facility, piece of equipment or utility which is required under this code shall be so constructed or installed to function safely and effectively and shall be maintained in good working condition.
- (2) Doors accessing an apartment dwelling from common hallways must be constructed of a solid core material and must have a twenty (20) minute fire rating. Doors must have the appropriate numeral permanently affixed for identification. This number is to be no smaller than two (2) inches.
- (3) Ceilings, walls and floors shall be maintained free of holes, cracks or loose and deteriorated materials so that parts which become defective do not constitute a hazard to the occupants nor a harborage for insects or vermin. Loose or defective sections shall be removed and replaced so that the joint between the repaired and the sound material is made flush and smooth. Split, splintered or badly worn floor boards must be replaced.
- (4) All walls, ceilings, woodwork, doors and windows shall be kept clean and free of any flaking, loose or peeling paper or paint.
- (5) Doors to habitable rooms, bathrooms and toilet rooms must fit the opening in which they are hung and be properly equipped with hardware.

(Ord. No. 3597, § 2(503), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-304. - Abandoned appliances and other large air-tight containers.

Not more than seventy-two (72) hours after abandonment, all iceboxes, refrigerators and other large airtight containers shall be removed from the premises. Doors must be removed immediately.

(Ord. No. 3597, § 2(504), 9-4-07)

Sec. 5-305. - Painting.

Any and all chipped or peeling paint, whether interior or exterior, must be abated within a reasonable time. This governs paint from the foundation to the eaves as well as all chewable surfaces, walls, woodwork, and all chewable surfaces on the interior. All painting must be in compliance with Maryland Lead Laws. Exterior painting work may be exempted during the winter months, starting November 1 and ending April 1, at the discretion of the director.

(Ord. No. 3597, § 2(505), 9-4-07)

Sec. 5-306. - Quality of materials and workmanship.

Material used in making any repairs shall be of a quality and kind suitable for the purpose normally to accomplish such a repair. All repairs shall be completed in a workmanlike manner and according to the accepted standards and practices of the trade.

(Ord. No. 3597, § 2(506), 9-4-07)

Sec. 5-307. - Floors in contact with soil.

Habitable rooms where floors are in contact with soil shall be paved with concrete or other masonry and, when required to be replaced, shall be paved either with concrete, not less than three (3) inches thick, or with other masonry, not less than four (4) inches thick, which shall be sealed tightly to the foundation walls; but French drains approved by the director shall be acceptable.

(Ord. No. 3597, § 2(507), 9-4-07)

Secs. 5-308—5-320. - Reserved.

DIVISION 6.

SPACE AND OCCUPANCY

Sec. 5-321. - General requirements.

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purposes of living therein which does not comply with the following requirements:

- (a) For every dwelling unit there shall be at least one hundred fifty (150) square feet of floor area for the first occupant and at least ninety (90) additional square feet of floor area for each additional occupant over the age of one (1) year. The floor area shall be calculated on the basis of the total floor area of the dwelling unit exclusive of stairways. For the purpose of such calculation, only the floor area in a basement meeting the requirements for basement occupancy shall be counted. It is the owner's responsibility at the time of inspection to designate room uses.
- (b) No room used for sleeping purposes shall have a floor area of less than seventy (70) square feet. No room shall be used for sleeping purposes by two (2) or more persons unless there is at least fifty (50) square feet for each person.
- (c) Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms, and basements shall have a ceiling height of not less than seven (7) feet (2,134 mm). The required height shall be measured from the finish floor to the lowest projection of ceiling. Exceptions:
 - (1) Beams and girders spaced not less than four (4) feet (1,219 mm) on center may project not more than six (6) inches (152 mm) below the required ceiling height.
 - (2) Ceilings in basements without habitable spaces may project to within six (6) feet, eight (8) inches (2,032 mm) of the finished floor, and beams, girders, ducts or other obstructions may project to within six (6) feet, four (4) inches (1,931 mm) of the finished floor.
 - (3) Not more than fifty (50) percent of the required floor area of a room or space is permitted to have a sloped ceiling less than seven (7) feet (2,134 mm) in height with no

portion of the required floor area less than five (5) feet (1,524 mm) in height.

- (4) Bathrooms shall have a minimum ceiling height of six (6) feet eight (8) inches (2,036 mm) over the fixture and at the front clearance area for fixtures as shown in Figure R307.2. A shower or tub equipped with a showerhead shall have a minimum ceiling height of six (6) feet eight (8) inches (2,036 mm) above a minimum area thirty (30) inches (762 mm) by thirty (30) inches (762 mm) at the showerhead.

This section is subject to updates of the International Residential Code as adopted by Maryland Building Performance Standards (MBPS). Current reference is IRC, 2006 Edition.

- (d) Every owner, agent, licensee or operator shall advise the tenant in writing of the maximum number of occupants permitted in the dwelling unit leased or rented.

(Ord. No. 3597, § 2(601), 9-4-07)

Sec. 5-322. - Entrances.

There shall be, for each dwelling unit and for each boarding unit, a separate access either to a hallway, landing, stairway or street.

(Ord. No. 3597, § 2(602), 9-4-07)

Sec. 5-323. - Basement occupancy.

No room in any basement shall be occupied as a habitable room, bathroom, or toilet room unless:

- (a) There are no pipes, ducts or other obstructions less than six (6) feet above the floor level or less than five (5) feet eight (8) inches above floor level in a bathroom or toilet room existing on the effective date of this article [September 4, 2007], and ceiling heights are in accordance with this code; except that a bathroom existing on the effective date of this article, with at least one-half (½) of the floor area having a ceiling height of not less than five (5) feet eight (8) inches, shall be permitted to continue;
- (b) Light and ventilation for habitable rooms are provided in accordance with this code and seventy (70) percent of the regular window area is above the ground level, except when window areaways or window wells are

provided so that the minimum width of the areaway or well is not less than twice the distance from the bottom of the window to the finished grade; and

- (c) The floor and walls, if in contact with the earth, are waterproof and damp-proof in accordance with a method approved by the director. Such waterproofing and damp-proofing shall be between the floor or wall finish and the ground.
- (d) Windows are required as a means of egress, unless a sprinkler system is present and operational at all times.

(Ord. No. 3597, § 2(603), 9-4-07)

Sec. 5-324. - Passing through a bathroom.

Each dwelling unit shall be provided with a means of circulation giving access to all rooms without passing through a bathroom.

(Ord. No. 3597, § 2(604), 9-4-07)

Sec. 5-325. - Prohibited uses.

- (a) Kitchens and nonhabitable or public spaces shall not be used for sleeping purposes. No cellar space shall be used as a habitable space.
- (b) Animals of any type cannot be maintained or boarded on premises wherein the owner of the animal is not presently residing within the structure.
- (c) Animal confinement areas shall be considered accessory structures and shall be in compliance with the current zoning ordinance.

(Ord. No. 3597, § 2(605), 9-4-07)

Secs. 5-326—5-340. - Reserved.

DIVISION 7.

RESPONSIBILITIES OF OCCUPANTS

Sec. 5-341. - Prohibited occupancy.

An occupant or tenant shall not sublet any dwelling or dwelling unit which does not comply with the provisions of this code. In particular, but not by way of limitation, an occupant shall not permit any portion of a dwelling or dwelling unit to be occupied in violation of the standards and requirements for light, ventilation and occupancy as provided in this code. The provisions of division 3 hereinabove specifically apply to this section.

(Ord. No. 3597, § 2(701), 9-4-07)

Sec. 5-342. - Sanitary maintenance.

Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling or dwelling unit and the premises thereof which he occupies and controls. A clean and sanitary condition shall include but is not limited to the following standards:

- (a) Floors, floor coverings and other walking surfaces shall be kept clean and free of dirt, filth, garbage, human and animal wastes, litter, refuse and any other unsanitary matter.
- (b) Walls, ceilings, windows and doorways shall be kept clean and free of dirt, greasy film, soot and any other unsanitary matter.
- (c) Plumbing fixtures shall be kept in a clean and sanitary condition, and no material shall be deposited in any such fixture which may result in the obstruction of such fixture or of any lines connected thereto. Every occupant shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(Ord. No. 3597, § 2(702), 9-4-07)

Sec. 5-343. - Pest extermination.

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rats or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. No occupant or owner of a dwelling or dwelling unit shall accumulate or allow to accumulate, rubbish, boxes, lumber, scrap metal or other materials in a manner that may provide a harborage for pests of any type in or about any dwelling or dwelling unit floor.

(Ord. No. 3597, § 2(703), 9-4-07)

Sec. 5-344. - Vandalism.

The tenant or occupant of any dwelling unit shall not destroy, deface, damage, impair or carry away, nor permit any other person on the premises with his permission to destroy, deface, damage, impair or carry away any of the facilities, equipment, appurtenances or any part of the structure of a dwelling or dwelling unit. Any violation of this [section 5-344](#) may be proceeded against without the necessity of giving notice under [section 5-231](#) of this code.

(Ord. No. 3597, § 2(704), 9-4-07)

Sec. 5-345. - Egress.

The occupant of any dwelling or dwelling unit shall not obstruct in any manner any means of egress from any portion of the premises.

(Ord. No. 3597, § 2(705), 9-4-07)

Sec. 5-346. - Flammable liquids or gases or combustible materials.

The occupant of any dwelling or dwelling unit shall not have or store flammable liquids or gas or any combustible material in a quantity greater than that permitted by the fire department or any other applicable codes. Permits are required to be obtained through the Cumberland Fire Department prior to the installation and usage of liquid petroleum and propane tanks greater than one hundred (100) gallons.

(Ord. No. 3597, § 2(706), 9-4-07)

Sec. 5-347. - Access for repairs.

Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit or its premises, at all reasonable times, for the purpose of making such inspection and such repairs or alterations as are necessary to effect compliance with the provisions of this code, or with any lawful rule or regulation adopted, or by any lawful order issued pursuant to the provisions of this code.

Sec. 5-348. - Access for city inspection.

Every occupant of a dwelling or dwelling unit and owner or agent thereof shall give the City of Cumberland's director or his duly authorized agent access to any part of such dwelling or dwelling unit or its premises, for the purpose of conducting inspections as required by this code.

(Ord. No. 3597, § 2(708), 9-4-07)

Sec. 5-349. - Cleanliness of sidewalks, alleys and gutters.

Every occupant of any dwelling or dwelling unit bordering any street, lane or alley shall not deposit garbage or rubbish into the gutters or alleys abutting the premises, and shall be

responsible for sidewalk snow removal in accordance with City of Cumberland Charter and Code of Laws.

In any single-family dwelling or in any dwelling where the occupants of a particular dwelling unit have exclusive control over the rear yard, those occupants shall maintain a clean and sanitary condition, free of garbage, rubbish, bulk trash, or other offensive material, both that portion of the sidewalk and the gutter that abuts the property and that portion of any alley that abuts the property and bounded by the property lines of the adjoining properties and mid-point of said alley.

(Ord. No. 3597, § 2(709), 9-4-07)

Sec. 5-350. - Heat.

Where the heating facilities of any dwelling or dwelling unit are under the control of the occupant thereof, it shall be the responsibility of the occupant to operate the heating facilities in order to maintain above-freezing temperatures at all times in all portions of the dwelling or dwelling unit and the premises thereof which he occupies and controls so as to prevent injury or damage to water pipes and plumbing.

(Ord. No. 3597, § 2(710), 9-4-07)

Secs. 5-351—5-370. - Reserved.

DIVISION 8.

RESPONSIBILITIES OF OWNERS

Sec. 5-371. - Prohibited occupancy.

No owner shall lease or permit the subletting to another for occupancy any vacant or vacated dwelling or dwelling unit which does not comply with the provision of this code; nor shall the owner enter into a land installment contract whereby the residential property is occupied prior to meeting the provisions of this code, unless permission for such occupancy has been granted by the director. Such permission shall not be unreasonably withheld by the director. The provisions of division 3 hereinabove specifically apply to this section.

(Ord. No. 3597, § 2(801), 9-4-07)

Sec. 5-372. - Sanitary maintenance.

Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and the premises thereof.

(Ord. No. 3597, § 2(802), 9-4-07)

Sec. 5-373. - Heat.

If the heating facilities of any dwelling or dwelling unit are not under the control of the occupant thereof, and except as otherwise provided below in this section, it is the responsibility of the owner operator, or agent in charge, to operate the heating facilities in accordance with sections [5-282](#) and [5-283](#) of this Code.

(Ord. No. 3597, § 2(803), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-374. - Rat proofing and pest extermination.

Every owner shall be responsible for the eradication of any insects, rats or other pests when the infestation exists in two (2) or more of the dwelling units in a dwelling, or in the shared or public areas of a dwelling. All dwellings and dwelling units shall be rat proofed and maintained in a rat proof condition.

(Ord. No. 3597, § 2(804), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-375. - Cleanliness of sidewalks, alleys, and gutters.

The owner of any premises that contains two (2) or more dwelling units with a common entry bordering any street, lane or alley shall not deposit garbage or rubbish into the street, gutters or alleys abutting the premises and shall be responsible for sidewalk snow removal in accordance with City of Cumberland Charter and Code of Laws. The owner or operator of any dwelling containing more than one (1) dwelling unit shall maintain in a clean and sanitary condition, free of garbage, rubbish, bulk trash, or other offensive material.

(Ord. No. 3597, § 2(805), 9-4-07)

Sec. 5-376. - Notification of exits.

It shall be the responsibility of the owner, or his operator or agent, to notify the occupant of the passageway to all required exits.

(Ord. No. 3597, § 2(806), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Secs. 5-377—5-390. - Reserved.

DIVISION 9.

MISCELLANEOUS REQUIREMENTS

Sec. 5-391. - Elevators.

If present and where required, elevators must have a current local or state inspection certificate.

(Ord. No. 3597, § 2(901), 9-4-07)

Secs. 5-392—5-400. - Reserved.

DIVISION 10.

SPECIAL PROVISIONS FOR BOARDINGHOUSES

Sec. 5-401. - Exemptions.

Hotels and motels as defined in [section 5-200](#) of this article are exempted from the provisions of this chapter.

(Ord. No. 3597, § 2(1000), 9-4-07)

Sec. 5-402. - Rooms numbered.

Any person who has a registered boarding unit as provided by division 3 of this article, shall cause each boarding unit to which such registration relates, to be numbered in a plain and conspicuous manner, the number to be placed on the outside of the door and no two (2) doors shall bear the same number. Designated unit numbers are not to be altered without prior approval from community development.

(Ord. No. 3597, § 2(1001), 9-4-07)

Sec. 5-403. - Cleanliness of premises.

The operator of every boardinghouse shall keep the common area of the same and every part thereof clean and free from any accumulation of dirt, filth, rubbish, garbage, or similar matter and shall keep the same free from, and effectively protected against, vermin and rodent infestation.

(Ord. No. 3597, § 2(1002), 9-4-07)

Sec. 5-404. - Heating.

Heating in all boardinghouses and boarding units shall comply with the provisions of sections [5-282](#) through [5-284](#) hereof.

(Ord. No. 3597, § 2(1003), 9-4-07)

Sec. 5-405. - Light and ventilation.

Light and ventilation in all boardinghouses and units shall comply with the provisions of [section 5-274](#) hereof.

(Ord. No. 3597, § 2(1004), 9-4-07)

Sec. 5-406. - Basement occupancy.

No boarding unit, bathroom or toilet room serving as boarding units shall be located in the basement, unless it complies with the provisions of [section 5-323](#) hereof.

(Ord. No. 3597, § 2(1005), 9-4-07)

Sec. 5-407. - Space and occupancy.

Space and occupancy in all boardinghouses shall comply with the provisions of [section 5-321](#) hereof.

(Ord. No. 3597, § 2(1006), 9-4-07)

Sec. 5-408. - Bathing facilities.

Every dwelling unit in any boardinghouse shall contain within a room which affords privacy, a bathtub or shower in good working condition, which shall be properly connected to both hot and cold water lines and to the public sanitary sewer system. Such bathing facility shall be within and accessible from within a room which affords privacy, with at least one (1) bathtub or shower for each ten (10) persons or fraction thereof who are occupants of boarding units. Such bathtub or shower shall be in good working condition and shall be properly connected to both hot and cold water lines and to the public sanitary sewer system. Where such bathtub or shower facility is not provided within the boarding unit, it shall be within and accessible from within the building from a common hall and not more than one (1) story removed from the boarding unit intended to be served by such facility. The floor of any such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions. No facilities in the basement or cellar shall count in computing the number of facilities required by this section.

(Ord. No. 3597, § 2(1007), 9-4-07; Ord. No. 3719, Exh. A, 7-31-12)

Sec. 5-409. - Sinks.

Sinks in every dwelling unit in all boardinghouses shall comply with the provisions of [section 5-262](#) thereof.

(Ord. No. 3597, § 2(1008) 9-4-07)

Sec. 5-410. - Toilet facilities.

- (a) Every dwelling unit in any boardinghouse shall contain within a room which affords privacy, a water closet and a lavatory basin in good working condition, which shall be properly connected to the public sanitary sewer system. Such water closet and lavatory basin shall be within and accessible from within the dwelling unit. The lavatory basin shall be properly connected to both hot and cold water lines, and the water closet shall be properly connected to a cold water line. The facilities shall be in addition to those required for boarding units.

- (b) Every boardinghouse shall contain within a room which affords privacy, at least one (1) water closet and at least one (1) lavatory basin for each six (6) persons or fraction thereof who are occupants of boarding units, including member of the family of the owner or operator if they share the use of the facilities. Such water closet and

lavatory basin shall be in good working condition and shall be properly connected to the public sanitary sewer system. The lavatory basin shall be properly connected to both hot and cold water lines and the water closet shall be properly connected to a cold water line. Where such water closet and lavatory basin facilities are not provided within the boarding unit, they shall be within and accessible from within the building from a common hall and not more than one (1) story removed from the boarding unit intended to be served by such facilities.

- (c) The floor of any such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions.

(Ord. No. 3597, § 2(1009), 9-4-07)

Sec. 5-411. - Water heating facilities.

Water heating facilities in all boardinghouses shall comply with the provisions of section 5-265 hereof.

(Ord. No. 3597, § 2(1010), 9-4-07)

Sec. 5-412. - Plumbing; installation and maintenance.

All plumbing, water closets and other plumbing fixtures in every boardinghouse shall be installed and maintained in good working condition and repair and in accordance with the requirements of this code and of the applicable plumbing code.

(Ord. No. 3597, § 2(1011), 9-4-07)

Sec. 5-413. - Cooking.

- (a) Cooking is prohibited in any boarding unit.
- (b) Any food preparation and service facilities in a boardinghouse shall be operated only by the holder of the necessary retail food permit.
- (c) An occupant of a boarding unit shall not prepare meals in any shared or public areas of the boardinghouse or the premises except in properly prepared kitchen facilities.

(Ord. No. 3597, § 2(1012), 9-4-07)

Sec. 5-414. - Garbage, rubbish and ashes.

Every boardinghouse shall be provided, in a location accessible to all boarding units, with an adequate number of receptacles to contain all garbage, rubbish and ashes that may accumulate during the usual interval between the collection thereof. All such receptacles shall be maintained at all times in good order and repair. Receptacles shall be watertight, and provided with handles and tight covers.

(Ord. No. 3597, § 2(1013), 9-4-07)

Sec. 5-415. - Entrances and egress.

- (a) There shall be for each boarding unit a separate access either to a hallway, landing, stairway or street.

- (b) Every boarding unit shall have safe, unobstructed means of egress leading to safe and open space at ground level as required by the laws and ordinances of the City of Cumberland.

(Ord. No. 3597, § 2(1014), 9-4-07)

Sec. 5-416. - Lighting of halls and stairs.

Lighting of public halls and stairways in all boardinghouses shall comply with the provisions of section 5-277 hereof.

(Ord. No. 3597, § 2(1015), 9-4-07)

Secs. 5-417—5-430. - Reserved.

DIVISION 11.

UNSAFE BUILDINGS

Sec. 5-431. - Order to vacate.

Whenever the director finds an occupied building, dwelling, dwelling unit, boarding house or boarding unit to be unfit for human habitation by reason of:

- (a) Conditions of damage, decay, dilapidation, obsolescence, abandonment, insanitation, or vermin or rodent infestation which constitute a serious hazard to the health or safety of the occupants or the public;
- (b) Lack of sanitation, illumination, ventilation, heating, plumbing or other facilities adequate to protect the health or safety of the occupants or the public; or
- (c) Conditions which are so unsafe, unsanitary, over-crowded or otherwise dangerous to life, health, or safety as to create a serious hazard to the occupants or the public, he may cause to be posted an order requiring such building or portion thereof to be vacated and may take necessary steps to remove the occupant or occupants who fail or refuse to vacate. Any building, dwelling, dwelling unit, boarding house or boarding unit so vacated shall not again be used for human habitation or otherwise until the hazard has been eliminated and the director has given written approval of re-occupancy.

(Ord. No. 3597, § 2(1101), 9-4-07)

Sec. 5-432. - Notice.

The director, after posting an order to vacate a property, shall give to the owner, agent or person in control of such property a written notice in accordance with the provisions of [section 5-231](#) hereof, requiring the repair and rehabilitation and, where required, the boarding up or the demolition and removal of such building, structure or portion thereof.

(Ord. No. 3597, § 2(1102), 9-4-07)

Sec. 5-433. - Action by director.

When the owner, agent or person in control cannot be found or shall fail, neglect or refuse to comply with the notice to repair and rehabilitate or board up or demolish and remove such building, structure or portion thereof, the director, after giving such prior notice as is required by the provisions of [section 5-231](#) hereof to the owner, agent or person in control, shall cause such building or structure to be repaired and rehabilitated, boarded up, demolished

and removed, secured or required to remain vacant, as the case may require, and any cost incurred shall be collected in the same manner as provided in [section 5-235](#) of division 3 of this code.

(Ord. No. 3597, § 2(1103), 9-4-07)

Sec. 5-434. - Requirements for unsafe buildings.

After any building or structure or portion thereof has been vacated pursuant to this division, the director shall require that any such building, structure, or portion thereof and any and all openings therein be properly safeguarded as follows:

- (1) Every building or portion thereof which has been left vacant without removing any appliance or equipment but from which no utility service has been disconnected shall be safeguarded by closing and securely locking all windows and doors.
- (2) Any building or portion thereof from which all or most of the appliances and equipment have been removed, notwithstanding utility connections, shall be safeguarded by closing and securely locking all windows and doors. In addition thereto, all windows, doors and other openings which are within twelve (12) feet from the ground or which are within twelve (12) feet in any direction from an exterior stairway or fire escape, shall be further protected by boarding up with wood or metal panels and/or any other approved safeguard. Before any vacant building is closed and secured, all trash, rubbish and other debris shall be removed from the premises.
- (3) No partially or completely vacated building shall remain boarded up for a period longer than ninety (90) days. After said ninety-day period, the owner or agent or other person responsible shall forthwith either rehabilitate the building to make it fit for human habitation, or for commercial or other authorized uses, or it shall demolish and remove the same. Said ninety-day period may be extended for good cause shown upon the application made to the director. If such rehabilitation or demolition is not commenced immediately following such ninety-day period or any extension thereof, the director may undertake such action under and pursuant to the provisions of [section 5-433](#) hereof.

(Ord. No. 3597, § 2(1104), 9-4-07)

Secs. 5-435—5-440. - Reserved.

DIVISION 12.

SEVERABILITY; CONFLICT WITH OTHER ORDINANCES

Sec. 5-441. - Severability.

The provisions of this code are hereby declared to be severable. If any word, phrase, clause, sentence, paragraph, section or part in or of this code or the application thereof to any person, circumstance or thing is declared invalid for any reason whatsoever, the remaining provisions and the application of such provisions to other persons, circumstances or things shall not be affected thereby but shall remain in full force and effect, the mayor and city council hereby declaring that they would have ordained the remaining provisions of this code without the word, phrase, clause, sentence, paragraph, section or part, or the application thereof, so held invalid.

(Ord. No. 3597, § 2(1201), 9-4-07)

Sec. 5-442. - Conflict with other ordinances.

In any case where a provision of this code concerns the same subject matter as an existing provision of any zoning, building, electrical, plumbing, health, fire or safety ordinance or code or regulation, the applicable provisions concerned shall be construed so as to give effect to each; provided, however, that if such provisions are found to be in irreconcilable conflict, the provision which establishes the higher standard for the promotion and protection of the public health and safety shall prevail. In any case where a provision of this code is found to be in conflict with an existing provision of any other ordinance or code or regulation in force in the City of Cumberland which establishes a lower standard for the promotion and protection of the public health and safety, the provision of this code shall prevail, and the other existing provision of such other ordinance or code or regulation is hereby repealed to the extent that it may be found in conflict with this code.

(Ord. No. 3597, § 2(1202), 9-4-07)

Secs. 5-443—5-460. - Reserved.