



# Mayor and City Council of Cumberland

*Mayor* Raymond M. Morriss  
*Councilman* Seth D. Bernard  
*Councilman* Richard J. "Rock" Cioni  
*Councilman* Eugene T. Frazier  
*Councilwoman* Laurie P. Marchini

City Administrator Jeffrey D. Rhodes  
City Solicitor Michael S. Cohen  
City Clerk Marjorie A. Woodring

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## AGENDA

M&CC Regular Meeting  
Video Conference

DATE: June 02, 2020

### OPEN SESSION - 6:15 PM

**This meeting will be held remotely as a videoconference.**

To view the meeting live, go to the City's website at [www.ci.cumberland.md.us](http://www.ci.cumberland.md.us) and access the public meetings link under the Government tab.

To provide public comment during this video conference, citizens must go to the following webpage on Zoom Meeting:

<https://us02web.zoom.us/j/86745605034?pwd=Qi9xSHptZmpZMitrYy9EM1VpeGdkZz09>

and use Meeting ID (867 4560 5034) Password (868849).

To join by phone dial: (+1 301 715 8592); Meeting ID: (867 4560 5034) Password: (868849)

Citizens wishing to speak will be placed in a waiting room and will be called upon at the appropriate time.

Written public comment may also be made by emailing the City Clerk at [margie.woodring@cumberlandmd.gov](mailto:margie.woodring@cumberlandmd.gov). All electronic comments must be submitted by 2 PM on June 2, 2020. Comments received will be read by City staff during the public comment portion of the meeting.

### Roll Call

### Presentations

1. Presentation of the 2019 Planning Commission Annual Report by Morgan Alban, Engineering Consultant

### Director's Reports

#### (A) Administrative Services

[Administrative](#) Services monthly report for March, 2020

## **Approval of Minutes**

- [1.](#) Approval of the Closed Session Minutes of April 21, 2020, and the Closed Session, Budget Work Session and Regular Session Minutes of May 5, 2020

## **Public Hearings**

- [1.](#) **Public Hearing** - presentation of preliminary data findings pertaining to the 2020 Analysis of Impediments to Fair Housing provided by Manuel Ochoa from the consultant firm LSA. The Analysis of Impediments report will provide a plan of action by which Community Development Block Grant (CDBG) funds and other resources will be leveraged to affirmatively further fair housing and to address impediments.

**To provide public comment during the Public Hearing, please see the information above for joining remotely via videoconference or phone.**

## **Unfinished Business**

### **(A) Ordinances**

Ordinance No. 3865 (*2nd and 3rd readings*) - providing for the closure of two (2) portions of a street known as Park Alley, in the vicinity of Williams Street and Cecelia Street, as requested by Cumberland Gateway Real Estate LLC, and authorizing conveyance of the closed portions to Cumberland Real Estate LLC, as adjoining property owner, with certain easements, reservations, and restrictions incorporated into the deed

## **New Business**

### **(A) Ordinances**

[Ordinance](#) No. 3866 (*1st reading*) - providing for the City Tax Levy for FY21. Real Estate tax rate to remain at \$1.0595 per \$100 of assessed value. Personal Property tax rate to remain at \$2.648 per \$100 of assessed value.

[Ordinance](#) No. 3867 (*1st reading*) - providing for the annual appropriation for the General Fund for FY21

[Ordinance](#) No. 3868 (*1st reading*) - providing for the annual appropriation for the Water Fund for FY21

[Ordinance](#) No. 3869 (*1st reading*) - providing for the yearly appropriation for the Sewer Fund for FY21

[Ordinance](#) No. 3870 (*1st reading*) - providing for the annual appropriations for the Special Purpose Funds for FY21

[Ordinance](#) No. 3871 (*1st reading*) - to provide for an increase in water rates effective July 1, 2020.

Ordinance No. 3872 (*1st, 2nd, and 3rd readings*) - to repeal and reenact with amendments Chapter 14 of the City Code, entitled "Nuisances"

**(B) Orders (Consent Agenda)**

[Order](#) 26,647 - authorizing execution of a Quitclaim Deed to transfer all of the City's right, title, interest and estate pertaining to property at 12-14 Marion Street to 5 National Highway LLC for the sum of Ten Dollars (\$10.00)

[Order](#) 26,648 - authorizing execution of an Outdoor Dining Lease Agreement with Ristorante Ottaviani LLC detailing terms for the use of the public right-of-way immediately in front of and adjacent to 25 N. Centre Street for outside cafe dining for a one-year term effective June 1, 2020 through May 31, 2021

**Public Comments**

All public comments are limited to 5 minutes per person

**Adjournment**

**File Attachments for Item:**

Administrative Services monthly report for March, 2020

## **Administrative Services Monthly Report for March 2020**

**May 19, 2020**

Honorable Mayor and City Council  
City Hall  
Cumberland, Maryland 21502

Dear Mayor and City Council Members:

The following report is submitted by the Department of Administrative Services for the month of March, 2020:

### **Management Information Systems (MIS) Department** March 2020

#### **Statistics**

151 completed help desk requests  
212 open help desk requests

#### **Activities**

Major department initiatives in the past month include:

- Continue working with Community Development on new software deployment project
- Continue troubleshooting/refining mobile data terminal setup in police cars
- Continue making network changes to update our environment and improve security
- Begin working with vendor for Center City (George Street) Parking Garage cameras and overall camera management solution
- Set up laptops to facilitate city employees working from home
- Provide other assistance due to Covid-19 crisis; including remote meeting support

**MAY 19 2020**

## **Parks and Recreation**

March 2020

The Covid-19 pandemic began nationally early in the year and locally this month. Many events and programs have been canceled or delayed until this pandemic has concluded.

Schools have been closed since 3/16/20. Other preventive measures were ordered by State and National authorities. All City Hall staff began working from home on 3/31/20

**Reservations** for the six covered Pavilions at Constitution Park continue to be taken for the 2019 season. Rental Fees are \$ 100.00 for the Large Pavilion and \$ 75.00 for the Small Pavilion.

Reservations made in the month of March – 6

Pavilion usage has been delayed until further notice.

**Co-ed Volleyball League** - 7 teams, 56 participants, games are played weekly on Wednesday nights at South Penn Elementary School. Play is under the direction of Carol Brown. 2 weeks of games – 6 matches – Attendance 96 League play ended with the closing of schools.

### **Field and court usage for the month of March:**

League play was delayed with the canceling of school

By order of the Governor of Maryland, all parks and playgrounds were ordered closed to the public.

### **Areas of work**

- Work with leagues, and groups to monitor facility closings.
- Park Pool 2020 season – Work with Amy Nazelrod, pool manager for changes related to the uncertainty of the upcoming pool season – Interviews and pool test was canceled for lifeguard applicants
- Plans were made for school Marble tournaments, however with the closing of school's supplies were not able to be delivered.
- Continue work related to pavilion reservations - (Phone calls for reservations have slowed down)
- Summer Day Camp Brochure preparation has been put on hold until future notice.
- Annual Easter Egg Hunt program scheduled for Friday April 10 - Cancelled
- All seasonal employee hiring has been suspended
- Park Summer Concert Schedule filled, however on hold for now.

### **Meetings**

Recreation Advisory Board Meeting Monday March 2

Department meetings and updates related to operations due to Coronavirus

### **Upcoming**

Continue daily work from home until further notice

Continue to plan for the upcoming season

## Community Development Report

March 2020

### CODE COMPLIANCE

#### **Code Enforcement Activity:**

20 calls with 11 resolved.

Closed 6 ad'l cases from previous months.

#### Nuisance & Junk Vehicle

Reported 15

Resolved 9

Reported

Resolved

#### Property Maintenance

Reported 1

Resolved 0

Reported 2

Resolved 1

#### Building Code

#### Housing Code

Reported 1

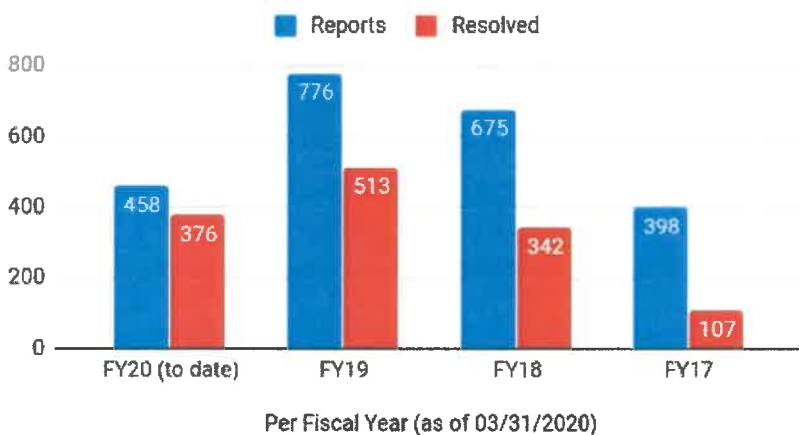
Resolved 1

#### Zoning

Reported 1

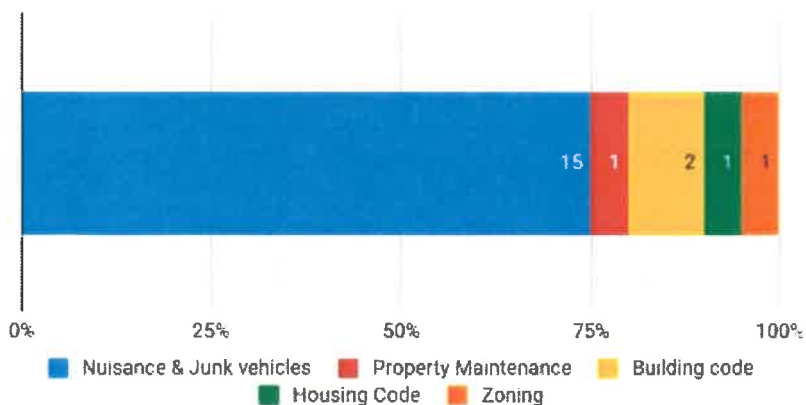
Resolved 0

### **Calls vs. Resolved per FY**



Note: CD is up 29% on resolving reports in FY20 vs. FY19;  
61% increase from FY18; 203% increase from FY17

### **Code Violations Reported in March 2020**



## Permits, Applications, and Licenses

Building Permits		Occupancy Permits		Plan reviews, etc.	
Received:	4	Received:	3	Received:	0
Issued:	2	Issued:	4		

COA Permits		Rental Licenses		Housing Inspections	
Received:	0	Issued/Renewed:	18	Conducted:	22
		Passed:	22		

### Demolitions

Received: 4  
Approved: 9

### Revenue

Building Permits	\$783.00
Bldg. Permits, Miscellaneous	45.00
Occupancy Permits	90.00
Utility Permits	0.00
Plan Reviews, Amendments & Appeals	0.00
Municipal Infractions/Citations	0.00
Rental Licenses (new & renewals)	1,750.00
Paid Housing Inspection Requests	0.00
Certificates of Appropriateness	<u>0.00</u>

TOTAL        **\$2,668.00**

Demolition Permit - Bonds    \$4,500.00

## Code Compliance Manager Report – Noted Activity

- Demolition completed of: 5 Cresap Street.
- Razed six City owned properties: 1016 Ella Street, 119 Pennsylvania Ave., 218 Park St., 17 Waverly Terr., 19 Waverly Terr., and 411 Central Ave. (4 additional planned to be demolished)
- Assisted “Roberts Oxygen” in finding a new location within the City limits.
- Completed a Plan of Action for Dept. of Community Development concerning COVID-19.
- Notice of Violations posted and staff continues to collect late fees for past due Residential Rental License Program.



**Community Services Specialist - activity notable from norm:**

- Assisted the Historic Preservation Commission at their 3/11 meeting
- Following the HPC Meeting on 3/11, Fred Stratura of the Maryland Association of Historic District Commissions led a workshop for the HPC on "Ethics and Defensible Decision Making"
- Three applications for a Certificate of Appropriateness were reviewed/approved; two by the HPC and one by staff
- The HPC declared 130 Polk Street to be in "Demolition by Neglect" Staff provided the owners (by certified letter) with short and long term requirements to resolve the situation
- Spoke with one of the two owners of 130 Polk Street regarding the requirements
- Worked with Mike Cohen and BB&T staff to develop a plan to resolve the issues at 130 Polk Street
- Provided review determination letters to all applicants for a Certificate of Appropriateness
- A notice to suspend the Ordinance-required 45 day review deadline for Certificates of Appropriateness was approved and issued due to the COVID19 health emergency. This was enabled through the Governor's emergency declaration
- Reviewed and scored the applications received for the Maryland Heritage Areas Authority capital, non capital, and mini grants that were received by the Passages of the Western Potomac Heritage Area for this years' round
- Submitted all Community Legacy Quarterly Reports
- Submitted final invoice and payment documentation for Community Legacy funds that were advanced in June 2019 for the Central Business District Upper Story Redevelopment Program
- Continued working on closing out final requests for payment for 2016 Community Legacy-funded Facade Improvement Program
- Continued to work with Citizenserve on software implementation needs and began staff training on the platform
- Corresponded with State staff at MHT and DHCD regarding active projects.

**Community Development Programs**

Community Development Block Grant (CDBG) Monthly Activity 01/2020		March Rprt				
<i>Activity</i>	<i>Year</i>	<i>Initial Fund</i>	<i>ERR</i>	<i>Contract</i>	<i>Spent</i>	<i>Remain</i>
ADA Sidewalk Imps (Cumberland St)	2015	\$110,000.00	x	x	\$47,009.04	\$62,990.96
ADA Sidewalk Imps (Cumberland St)	2018	\$63,051.44	x	x	\$0.00	\$63,051.44
CB Sidewalk funds Bellevue	2017	\$23,192.54	x	x	\$0.00	\$23,192.54
CHNS Closing Cost Grant	2018	\$13,403.00	x	x	\$4,000.00	\$9,403.00
Friends Aware, Inc. Facility Rehab Ph. 4	2018	\$79,913.00	x	x	\$71,921.70	\$7,991.30
Program Income 2019	2019	\$1.44				\$1.44
correct on 3/10/2020						
<b>2015-2018 Funds</b>		<b>\$289,561.42</b>			<b>Total All</b>	<b>\$166,630.68</b>

Bellevue Sidewalks	2019	\$72,117.31	x	x		\$72,117.31
HRDC Emergency Housing	2019	\$25,000.00	x	x	\$2,344.96	\$22,655.04
Admin	2019	\$121,447.70	x	na	\$29,421.86	\$92,025.84
Indirect Cost	2019	\$10,552.30	x	na	\$5,276.00	\$5,276.30
FH	2019	\$10,000.00	x	na	\$2,148.91	\$7,851.09
YMCA Gilchrist Ph. 5 Playground	2019	\$77,000.00	x	x		\$77,000.00
AHEC Dental Access	2019	\$8,000.00	x	x	\$2,516.95	\$5,483.05
Assoc. Charities Long Term	2019	\$8,750.00	x	x		\$8,750.00
Assoc. Charities Short Term	2019	\$7,800.00	x	x		\$7,800.00
Incredible Years Parenting Fam Junction	2019	\$10,000.00	x	x	\$2,574.74	\$7,425.26
PHA FCH Sidewalks	2019	\$50,000.00	x			\$50,000.00
FCRC Shelter	2019	\$10,500.00	x	x	\$3,229.54	\$7,270.46
AHEC Denture Program -re-program to Dental Access	2019	\$7,000.00	x	x		\$7,000.00
ACM ADA WEX Loft Lift Rehab	2019	\$40,000.00	x	x		\$40,000.00
YMCA Riverside Rehab: Roof/Fence/Int Doors	2019	\$320,450.00	x	x	\$269,100.00	\$51,350.00
Const. Park Grove 4 Inclusive Playground	2019	\$43,728.41	x			\$43,728.41
Summer @ Your Library	2019	\$2,000.00	x	x		\$2,000.00
Assoc. Charities Food Pantry	2019	\$3,200.00	x	x		\$3,200.00
Horizon Goodwill Job Training Program	2019	\$21,000.00	x	x		\$21,000.00
<b>2019 Total Funds</b>		\$789,841.00				\$531,932.76
<b>2019 Project Funds</b>		\$848,545.72				\$531,932.76
as of 3/10/20 post Feb 2020 Draw						
					<b>Grand Total</b>	\$698,563.44

### Community Development Programs Manager Report

March 2020

- Assisted the Historic Preservation Commission at their 2/12 meeting
- Reviewed and scored the applications received for the Central Business District Accessibility Improvement Program
- Provided review determination letters to all applicants for a Certificate of Appropriateness as well as forwarded the Historic Preservation Commission's recommendation to the Mayor and City Council for a local historic site determination for the Avirett Place Columns
- Two applications for a Certificate of Appropriateness were approved by the Historic Preservation Commission
- Met with the review team on February 18 to determine recommendations for funding for the Central Business District Accessibility Improvement Program - recommended a "not to exceed" \$50,000 award for accessible door openers at entrances to each store entrance at the Shops at Canal Place and in public spaces in the Western Maryland Railway Station.
- Worked with Engineering staff to prepare phased project for Long Field at Constitution Park
- Continued working on closing out final requests for payment for 2016 Community Legacy-funded projects.

**Comptroller's Office  
Financial Activity Report  
March 2020**

**Cash Flow:**

Attached for your review is a Cash Flow Summary for the month of March 2020.

On March 1, 2020 the City had a cash balance of \$5.5 million. Disbursements exceeded receipts by \$2.6 million resulting in a cash balance of \$2.9 million at March 31, 2020.

As of March 31, 2020, the significant tax receivable balances were as reflected in the table below.

Taxes receivable (General Fund)					\$ 2,484,586
	Beg Balance	New Billing	Collections	Bad Debt	Ending Balance
FY 2020	\$ 1,624,999	\$ 92,746	\$ 211,911	\$ -	\$ 1,505,834
FY 2019	\$ 610,942	\$ -	26,201		\$ 584,741
FY 2018	299,628	-	36,119	-	263,509
FY 2017	38,697	-	1,041	-	37,656
FY 2016	29,080	-	285	-	28,795
FY 2015	25,729	-	278	-	25,451
FY 2014	15,146	-	-	-	15,146
FY 2013	11,634	-	-	-	11,634
FY 2012	5,658	-	-	-	5,658
FY 2011	3,172	-	-	-	3,172
Prior FY's	2,990	-	-	-	2,990
	\$ 2,667,675	\$ 92,746	\$ 275,835	\$ -	\$ 2,484,586

The current year tax receivable balance is comprised of the following:

Real property (non-owner occupied)	\$ 790,909
Non-Corp Personal Property	6,347
Corporate Personal Property	231,084
Real Property (semiannual payments)	477,494
Real Property (Half Year)	-
	<u>\$ 1,505,834</u>

The City liquidity position continues to be strong as illustrated in the following cash and investments table. Restricted cash and investments are comprised primarily of invested bond proceeds restricted to associated capital projects and expenditures.

**Cash and Investment Summary**

**March 31, 2020**

	Cash	Investments
Beginning Balance	\$ 5,514,388	\$ 13,892,783
Add:		
Cash Receipts	5,820,190	17,860
Investment Transfer	-	-
Less:		
Disbursements	8,474,568	-
Investment Transfer	-	-
Ending Balance	\$ 2,860,010	\$ 13,910,643
Restricted	\$ 269,238	\$ 6,958

The table below illustrates cash restrictions and restricted investments associated with specific expenditures and/or capital projects.

**Restricted Cash**

	3/1/2020	Increase	Utilization	3/31/2020
Police Seizures	\$ 86,205	\$ 933	\$ 150	\$ 86,988
Bowers Trust	24,068	-	-	24,068
Restricted Lenders	106,341	-	-	106,341
Other	51,841	-	-	51,841
	\$ 268,455	\$ 933	\$ 150	\$ 269,238

**Restricted Investments**

	3/1/2020	Increase	Utilization	3/31/2020
DDC	\$ 6,957	\$ 1	\$ -	\$ 6,958
	\$ 6,957	\$ 1	\$ -	\$ 6,958

The DDC restricted investment was funded through donations and is restricted for the purpose of maintenance of the Wes Han Fountain in the Downtown Mall.

## **Capital Projects and Associated Debt:**

The tables below illustrate undrawn Maryland CDA bond proceeds as well as the accumulated debt draws and grants received associated with the ongoing Combined Sewer Overflow (CSO) projects.

### **Available Bond Proceeds**

	3/1/2020	Issue	Utilization	3/31/2020
CDA 2014	\$ 497,817	\$ -	\$ -	\$ 497,817
CDA 2015	968,549	-	102,901	865,648
CDA 2017	39,986	-	-	39,986
CDA 2018	1,764,365	-	187,751	1,576,614
CDA 2019	3,407,019	-	-	3,407,019
	\$ 6,677,736	\$ -	\$ 290,652	\$ 6,387,084

### **CSO Projects Debt Draws**

	3/1/2020	Issue	Utilization	3/31/2020
Evitts Creek Debt	\$ 143,260	\$ -	\$ -	\$ 143,260
Evitts Creek Grant	-	-	-	-
WWTP Debt	2,833,866	-	-	2,833,866
WWTP Grant	22,475,087	-	497,475	22,972,562
	\$ 25,452,213	\$ -	\$ 497,475	\$ 25,949,688

The CDA 2015 \$103K debt draw was for misc. sewer fund capital projects and engineering fees associated with design of the Baltimore Street Access project. The CDA 2018 debt draws were for the (2) street dept vehicles, (1) Water Dist. vehicle, (1) Sanitary Sewer vehicle and (1) Flood Dept vehicle.

The Wastewater Treatment Plant (WWTP) CSO project is nearing completion. The WWTP CSO March draw requests were \$497K in BRF grants and no new debt. The WWTP CSO project is expected to be substantially complete in June 2020 pending COVID-19 restrictions.

The Evitts Creek CSO project is temporarily on hold as we continue to seek additional funding to expand the project.

## **General Fund Quarterly Budget Review**

The table below illustrates the differences between the Adopted FY 2020 budget and the unofficial revised budget with a following explanation for the most significant variances.

**City of Cumberland**  
**FY 2020 Adopted vs Revised Comparison**

	Adopted Budget	Revised Budget	Change Fav (Unfav)
<b>Revenues</b>			
Taxes	\$ 12,691,001	\$ 12,321,424	\$ (369,577)
Licenses & Permits	127,600	129,900	2,300
Intergovernmental	3,643,261	3,570,101	(73,160)
Charges for Services	1,579,425	1,656,499	77,074
Fines, Forfeitures & Interest	66,100	109,700	43,600
Miscellaneous	618,800	653,922	35,122
Financing Proceeds	3,207,500	3,283,326	75,826
Interfund Transfers	1,976,352	1,770,817	(205,535)
<b>Total Revenue and other financing sources</b>	<b>23,910,039</b>	<b>23,495,689</b>	<b>(414,350)</b>
<b>Expenditures</b>			
General Government	1,850,672	1,820,947	29,725
Public Safety	12,717,910	11,121,520	1,596,390
Public Works	2,925,181	2,846,684	78,497
Recreation	986,579	927,957	58,622
Community Dev & Housing	1,372,088	1,376,571	(4,483)
Debt Service	2,801,865	2,817,781	(15,916)
Operating Transfers	1,065,431	1,579,334	(513,903)
<b>Total Expenditures and other financing uses</b>	<b>23,719,726</b>	<b>22,490,794</b>	<b>1,228,932</b>
<b>Surplus (Deficit)</b>	<b>\$ 190,313</b>	<b>\$ 1,004,895</b>	<b>\$ 814,582</b>
<b>Creation (utilization)</b>			
Restricted/nonspendable fund balance	(96,186)	(970,842)	(874,656)
<b>Increase in unassigned Fund balance</b>	<b>\$ 94,127</b>	<b>\$ 34,053</b>	<b>\$ (60,074)</b>

**Revenue and sources:**

- Tax revenue – down \$370K - The estimated tax revenue reduction is primarily due to a 0.9% unfavroable variance in real estate tax bills, reductions in hotel/motel tax and penalties/interest collections caused by pandemic restrictions and cancelations.
- Intergovernmental revenue is down \$73K caused primarily by a lower estimate for income tax allocations cuased by the pandemic.
- Interfund transfers – payment in lieu of taxes are based on “taxable” utility assets and were lower than expected due to delays in capital purchases and delays in capital project completion.

**Expenditure and uses:**

- Public Safety – the revision is down \$1.6 million primarily due to a delay in the delivery of the \$1.3 million ladder truck that was budgeted and ordered in FY 2020. It likely will not get delivered until FY 2022. The balance is primarily due to vacancies in the police department.
- Public works – we spent much less on snow removal than anticipated in the budget causing the downward revision.
- Operating transfers – capital projects timing differences between fiscal years resulted in capital expenditures and the associated general fund transfer moving from FY 2019 to FY 2020.

Restricted fund balance utilization – the difference is associated with capital equipment and capital project timing differences.

Overall, we are expecting the unassigned surplus to be \$60K less than budgeted.

The table below depicts the general fund FY 2020 “revised” budget status through Mar 31, 2020 and compares to the same period in FY 2019.

City of Cumberland FY 2020 Comparison to FY 2019 General Fund							
	FY 2020			FY 2019			
	YTD Expenses Thru Mar 31	Revised Budget	%age	YTD Expenses Thru Mar 31	Actual Total	%age	Adopted Budget
<b>Revenues</b>							
Taxes	\$ 12,130,294	\$ 12,321,424	98.4%	\$ 11,928,786	\$12,105,265	98.5%	\$ 12,209,440
Licenses & Permits	68,739	129,900	52.9%	11,917	82,830	14.4%	141,500
Intergovernmental	2,087,399	3,570,101	58.5%	2,385,447	3,343,015	71.4%	3,096,050
Charges for Services	1,158,032	1,656,499	69.9%	1,013,574	1,624,314	62.4%	1,456,700
Fines, Forfeitures & Interest	84,330	109,700	76.9%	79,580	104,820	75.9%	35,700
Miscellaneous	456,548	653,922	69.8%	726,832	932,128	78.0%	916,300
Financing Proceeds	3,283,661	3,283,326	100.0%	574,454	573,320	100.2%	552,000
Interfund Transfers	1,770,567	1,770,817	100.0%	1,789,211	1,789,211	100.0%	1,796,963
<b>Total Revenue and other financing sources</b>	<b>21,039,570</b>	<b>23,495,689</b>	<b>89.5%</b>	<b>18,509,800</b>	<b>20,554,902</b>	<b>90.1%</b>	<b>20,204,653</b>
<b>Expenditures</b>							
General Government	1,421,223	1,820,947	78.0%	1,384,620	1,823,931	75.9%	1,767,771
Public Safety	8,297,287	11,121,520	74.6%	8,124,903	10,739,877	75.7%	10,934,399
Public Works	1,997,468	2,846,684	70.2%	1,881,097	2,486,455	75.7%	2,630,767
Recreation	617,698	927,957	66.6%	624,435	832,009	75.1%	999,638
Community Dev & Housing	984,814	1,376,571	71.5%	710,275	1,086,336	65.4%	1,249,668
Debt Service	1,362,629	2,817,781	48.4%	1,068,891	2,149,568	49.7%	2,087,537
Operating Transfers	938,697	1,579,334	59.4%	1,666,213	1,953,717	85.3%	2,648,760
<b>Total Expenditures and other financing uses</b>	<b>15,619,816</b>	<b>22,490,794</b>	<b>69.4%</b>	<b>15,460,434</b>	<b>21,071,894</b>	<b>73.4%</b>	<b>22,318,540</b>
<b>Surplus (Deficit)</b>	<b>\$ 5,419,754</b>	<b>\$ 1,004,895</b>		<b>\$ 3,049,366</b>	<b>\$ (516,992)</b>		<b>\$ (2,113,887)</b>
<b>Creation (utilization) Restricted/nonspendable fund balance</b>		<b>(970,842)</b>			<b>1,208,185</b>		<b>2,125,651</b>
<b>Increase in unassigned Fund balance</b>	<b>\$ 5,419,754</b>	<b>\$ 34,053</b>		<b>\$ 3,049,366</b>	<b>\$ 691,193</b>		<b>\$ 11,764</b>

### Revenue

- Revenue is tracking about the same as it did last year – 90% of the revenue recognized through March (75% of the fiscal year). This is typical due to most tax revenue being billed within the first couple of months.
- Intergovernmental revenues are behind the pace from last year due to timing differences in State Highway User revenue. It remains to be seen what effect the COVID-19 pandemic will have on overall HUR in FY 2020.
- The year-over-year interfund transfers difference is due to timing difference between years.

### Expenditures

- Expenditures are tracking about the same as in FY 19 and are in-line with the revised budget.
- Transfer for capital projects are behind schedule but there is a plan to make up the time.

The change in restricted fund balance is due to timing differences of capital funding vs capital expenditures.

## Health Care Claims Analysis

The table below compares our FY 20 YTD health care plan status to FY's 17, 18 & 19. Key points are as follows:

- Through Feb 29 we have a \$628K surplus compared to \$106K through the same date last year. This is the best position we have been at this point in the year since we started tracking the monthly claims status in FY 2017.
- A key figure to monitor is our performance ratio. The annual rates are established by estimating claims and adding a 15% "corridor" as a cushion for overages. A performance ratio of 100% indicates that we are at the expected claims rate. Through February we were at a claims ratio of 86.5%.
- We are members in LGIT health insurance group. Each group member pledges a "cross-share" that can be used to cover deficits of other members. Our "potential refund" represents a surplus less any anticipated cross-share.
- Our health care rates are increasing 4.6% for FY 21. We were originally told to expect a 10%-12% for FY 21 as our FY 19 performance ratio was at 109%.
- There is little doubt that our favorable claims performance is at least partly attributable to the COVID-19 pandemic and associated elective surgeries and scheduled Dr. appointments are being postponed to a later date.

Month	Total Deposits	Reinsurance Reimbursement		Net Monthly Claims Paid	CIGNA Refunds	Surplus (Deficit)	Performance Ratio	Pledged Cross Share		Anticipated Cross Share Needed	Potential Refund
		Received	Pending					Percentage	Dollars		
Feb-20	2,662,940	101,926	506,979	2,729,586	118,770	661,029	86.45%	22.5%	(148,732)	(32,469)	628,560
Feb-19	2,541,373	38,021	200,925	2,718,928	60,038	121,429	109.51%	22.5%	(27,321)	(14,947)	106,482
Feb-18	2,552,149	23,748	8,264	2,117,409	27,738	494,490	94.04%	22.5%	(111,260)	(22,989)	471,501
Feb-17	2,465,477	121,191	63,673	2,361,181	41,545	330,705	96.56%	22.5%	(14,326)	(23,318)	307,387

Respectfully submitted,



Jeff Rhodes  
City Administrator

*sln*



**File Attachments for Item:**

Approval of the Closed Session Minutes of April 21, 2020, and the Closed Session, Budget Work Session and Regular Session Minutes of May 5, 2020

# Mayor and City Council of Cumberland

## Closed Session Minutes

City Hall, 57 N. Liberty Street, Cumberland, MD 21502

Second Floor Conference Room

Tuesday, April 21, 2020, 5:33 p.m.

The Mayor and City Council convened in open session at 5:33 p.m. for the purpose of closing the meeting for an executive session pursuant to Section 3-305 (b) (1) and (4) of the General Provisions Article of the Annotated Code of Maryland to discuss a personnel matter pertaining to the compensation and retention of certain employees, and the relocation of a business in the City on City-owned property.

**MOTION:** Motion to enter into closed session was made by Council Member Frazier, seconded by Council Member Bernard, and was passed on a vote of 5-0.

**ALSO PRESENT:** Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Marjorie Woodring, City Clerk; Paul Kelly, CEDC Exec. Director; Matt Miller, Economic Development Specialist

# Mayor and City Council of Cumberland

## WORK SESSION

City Hall Council Chambers  
57 N. Liberty Street  
Cumberland, MD 21502

Tuesday, May 5, 2020  
5:00 p.m.

**PRESENT:** Raymond M. Morriss, President; Council Members: Seth Bernard, Richard J. Cioni, Eugene T. Frazier, and Laurie P. Marchini

**ALSO PRESENT:** Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Ken Tressler, Comptroller; Marjorie Woodring, City Clerk; Bobby Smith, City Engineer

Mr. Tressler provided a PowerPoint presentation, and advised on the tentative schedule for final budget work session, public hearing, 1<sup>st</sup> reading, and adoption, and stated that the budget presentation could be obtained off of the City website.

### I. FY2021 BUDGET HIGHLIGHTS

- Covid-19 Uncertainty
- General Fund \$226 deficit
- Assessable base expected to increase 1.2%
- Health insurance rate increase of ONLY 4.6%, refund projected at \$786K
- Recommend final year of planned 3 annual Water rate increases of 5%
- MPA requires General Fund assistance of \$132K and DDC requires General Fund assistance of \$32K
- New equipment and capital projects debt issues – General Fund-\$2.2M; Water Fund-\$3.2M; Sewer Fund-\$7.9M
- New Grant and other financial assistance – General-\$15.1M; Water-\$2.5M; Sewer-\$50.4M

### II. FY2020 & FY2021 COVID-19 CONCERNS

Mr. Tressler advised on the current year's Covid-19 concerns, saying MPA revenue is down, there is no penalty/interest income from tax sales, and hotel and motel vacancies are at 90-95%. He added that a report from the office of Peter Franchot states that 2<sup>nd</sup> Quarter withholding is down 22%. Mr. Tressler said he is projecting an almost \$400K reduction this FY in the General Fund due to the Covid-19 pandemic

Mr. Tressler advised that for FY21 there are a lot of the same Covid-19 problems as in FY20, saying no one knows how this is going to turn out, so he stated that some of this is a little bit of information, some is pure guess. He reviewed the numbers and deficits for FY21, saying

that the reductions shown are placeholders pending more concrete data. He advised that his projection of impact for FY21 from the Covid-19 pandemic is over \$800K.

Mayor Morriss stated that the key to this budget is to monitor it throughout the year. He advised that he had recently been on a conference call with Congressman Trone, saying that he is working on getting money to municipalities and counties for revenues lost due to Covid-19. Mr. Tressler advised that there is talk of some funding through CDBG, and they have received some public safety assistance.

### **III. TAX RATE**

Mr. Tressler reviewed the Assessable Real Estate Tax Base slide, and went over the increase projections, and advised there will be a \$116K revenue increase to the City if the tax rate is kept the same as right now. He stated the Constant Yield rate is \$1.0466 and recommended keeping it at that rate. He said the public hearing will be May 19, 2020.

### **IV. FY2021 PERSONNEL COSTS**

- COLA increase of 2% to all employees (subject to union negotiations)
- Small health insurance increase of 4.6% - national average is 7-8%  
Projecting a big FY2020 refund, probably because of a decrease in elective procedures and doctor visits due to Covid-19.
- 11 vacancies right now – budget prepared with 5 vacancies in mind.

### **V. FY2021 CAPITAL EQUIPMENT REQUESTS**

Mr. Tressler reviewed the requests:

- General Fund - total new debt issued - \$307,774
- Water Fund – total new debt issued - \$107,160
- Sewer Fund – total new debt issued - \$47,000
- Total New Debt issued - \$461,934
- Ladder truck is on order – expected delivery early February 2022 - \$1.3M

### **VI. CAPITAL EXPENDITURES – ONGOING PROJECTS**

Mr. Tressler provided a summary of ongoing capital project costs, saying that they are substantial.

- General Fund – over \$18M
- Water Fund – over \$6M
- Sewer Fund – over \$58M

Mr. Tressler advised that new debt will be required, as the combined expenditures are close to \$84M. He stated also that significant financial assistance of close to \$68M in the form of grants is expected.

Mr. Tressler provided a summary of projects for each division of funding, saying the most activity next year is the Baltimore Street Bridge, and downtown redevelopment. He advised that some additional new funding sources have been identified for the mall access project, stating that the total project will be approximately \$9.6M, of which the City will end up borrowing \$2.4M. He added that part of the Street Improvement Bond from last year may be used for this.

Mr. Tressler advised that once we get through these projects, there will be no additional debt for street improvements, and new debt will have to be issued for the next fiscal year.

Mayor Morris asked Mr. Smith to keep an eye on priorities for next year, regarding debt being issued. Mr. Smith advised that Engineering has a plan for which roads need addressed, and said they will go after cost-sharing agreements with Columbia Gas. He added that he has also been working in conjunction with the Water Department to improve streets the same time as water upgrades.

Mr. Tressler advised that they are projecting to submit an application for funds of \$400K from Community Legacy for the Baltimore Street Access Project. He added that some state sources think it's a reasonable request, others think it's high for a typical Community Legacy request. Mr. Tressler advised that assuming we proceed, we'll need to decide if we're going to invite other community projects.

## **VII. CAPITAL EXPENDITURES – WATER FUND**

Mr. Tressler reviewed project activities in the Water Fund. He advised that there is a major future project of a new filter building, with a project cost of over \$18M, and a start date in FY25. He stated that they still have to narrow down and figure out the cost, but added there are a few years in the meantime to look for funding sources.

## **VIII. CAPITAL EXPENDITURES – SEWER FUND**

Mr. Tressler quickly reviewed the ongoing and future Sewer Fund projects, which are outlined on the PowerPoint presentation. He advised that the Mill Race Pipeline and Evitts Creek Phase 3 Funding are approved.

## **IX. CITY-WIDE & ANNUAL DEBT SERVICE REQUIREMENTS**

Mr. Tressler summarized the City-Wide & Annual Debt Service Requirements, referring to the tables on the PowerPoint presentation.

**X. PROPRIETARY FUNDS FY21 BUDGET**

Mr. Tressler quickly reviewed the 3 slides on the PowerPoint presentation outlining the FY21 Proprietary Funds.

**XI. GOVERNMENTAL FUNDS FY21 BUDGET**

Mr. Tressler summarized the information on the slide, and advised there is a \$226,177 deficit in the General Fund. He stated that the General Fund is supporting the Downtown Development Commission to the extent they need it, after they run out of their existing supply of cash. He said an important thing to note is that we have been funding the design expenses for the Cochran Group out of the DDC budget, to the tune of \$106K

**XII. GENERAL FUND – FY20-21 BUDGET, FUND BALANCE, EXPENDITURES**

Mr. Tressler reviewed the 3 slides in the PowerPoint presentation that summarized the General Fund FY20/21 Department budget, fund balance, and discretionary expenditures. He advised that unassigned Fund Balance is the most important thing bond companies look at when borrowing money.

**XIII. KEY POINTS**

- General Fund deficit of \$226K
- Significant reliance on State Funding sources, and general Covid-19 uncertainties
- Tax Rate – current rate or constant yield rate – public hearing May 19<sup>th</sup>
- Discretionary expenditures
- Selective new hiring for vacancies
- COLA allowance (General Fund - \$148K)
- Water Rate increase of 5%
- Capital expenditure/new debt – minor impact (\$104K new G.F. debt service in FY21)
- CEDC > ADC reduction
- One-time transfer or loan from Utility

**XIV. DISCUSSION**

Mayor Morriss agreed on leaving the tax rate the same for this year, due to uncertainties. He said we will be working through the continued negotiation of the CEDC merger. The Mayor agreed that the transfer of one of the utility funds is not something he would recommend on a regular basis, but said with the Sewer Fund balance being where it is, it gives us the opportunity to do so and have a balanced budget.

Councilman Cioni stated that if we get more help from the Feds, Cumberland may have a leg up because the information submitted from the City was top of the line.

Mayor Morriss advised he wants to keep the unassigned fund balance continually going up and stated this is a good budget under extraordinary circumstances.

Mr. Tressler stated he will make the assumption that the Mayor and City Council want to go after the transfer or loan from utilities to balance the budget, and will manage it as we go. He said if he has been overly pessimistic and things with Covid-19 aren't as bad as he thought, then we won't have to do that. He added there are a lot of uncertainties, but said we can monitor and make adjustments during the year if some of the estimates are off.

Mayor and City Council will consider and provide input to Mr. Tressler and Mr. Rhodes.

**V. ADJOURNMENT**

With nothing further, the meeting adjourned at 5:04 p.m., and moved into Closed Session, pursuant to Section 3-305 (b) (4) and (7) of the General Provisions Article of the Annotated Code of Maryland.

Respectfully submitted,

Marjorie A. Woodring  
City Clerk

Minutes approved \_\_\_\_\_



# Mayor and City Council of Cumberland

*Mayor* Raymond M. Morriss  
*Councilman* Seth D. Bernard  
*Councilman* Richard J. "Rock" Cioni  
*Councilman* Eugene T. Frazier  
*Councilwoman* Laurie P. Marchini

City Administrator Jeffrey D. Rhodes  
City Solicitor Michael S. Cohen  
City Clerk Marjorie A. Woodring

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## MINUTES

M&CC Regular Meeting  
City Hall Council Chambers, 57 N. Liberty St., Cumberland, MD

DATE: May 05, 2020

### **I. CLOSED SESSION**

1. 5:00 p.m. - Convene in open session for the purpose of closing the meeting for an executive session pursuant to Section 3-305(b)(4) and (7) of the General Provisions Article of the Annotated Code of Maryland to receive legal advice regarding proposed changes to the City Charter and to discuss matters pertaining to the merger of the Cumberland Economic Development Commission (CEDC) with Allegany County.
2. Executive session

### **II. OPEN SESSION**

1. 6:15 p.m. - Reconvene into open session

### **III. Pledge of Allegiance**

### **IV. Roll Call**

#### **PRESENT:**

Councilman Seth Bernard  
Councilman Richard J. "Rock" Cioni  
Councilman Eugene T. Frazier  
Councilwoman Laurie P. Marchini  
President Raymond M. Morriss

**ALSO PRESENT:** Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Marjorie A. Woodring, City Clerk

### **V. Statement of Closed Meeting**

1. Summary Statement of closed meeting held May 5, 2020



Mayor Morris announced that a Closed Session had been held on May 5, 2020 at 5:00 p.m. and read into the record a summary of that session, which is attached hereto and made a part of these minutes as required under Section 3-306 (c) (2) of the General Provisions Article of the Annotated Code of Maryland.

## **VI. Director's Reports**

Motion to approve the reports was made by Councilman Bernard, seconded by Councilman Cioni, and was passed on a vote of 5-0.

### **(A) Administrative Services**

Administrative Services monthly report for February, 2020

### **(B) Engineering**

Engineering Division monthly report for April, 2020

Motion to approve the minutes was made by Councilman Frazier, seconded by Councilman Bernard, and was passed on a vote of 5-0

## **VII. Approval of Minutes**

1. Approval of the Work and Executive Session Minutes of March 3, 2020, the Special Public Session Minutes of March 31, and the Regular Session Minutes of April 7, 2020

## **VIII. New Business**

Mr. Rhodes reviewed each item on the Consent Agenda, and Mayor Morris called for questions or comments. Motion to approve all Consent Agenda items was made by Councilman Frazier, seconded by Councilwoman Marchini, and was passed on a vote of 5-0.

### **(A) Orders (Consent Agenda)**

**Order 26,637** - authorizing the Chief of Police to accept a FY20 BJA Coronavirus Emergency Supplemental Funding Program Grant, awarded by the DOJ, in the amount of \$39,559 to help the Police Department cover costs associated with Coronavirus-related expenses

**Order 26,638** - accepting the sole source proposal from Carl Belt, Inc. obtained through Gordian EZ IQC using NJPA competitive pricing, to repair the concrete walls and brick facade of the Viaduct Pump Station, Mill Race Pump Station, and Ridgeley Pump Station, in the estimated unit cost of \$77,045.04; sole source approved through City Code Section 2-171(c)(iv)

**Order 26,639** - accepted the reduced scope proposal from Place Economics to provide services for the "Economic Impacts of Historic Preservation in Cumberland, MD" project in the re-negotiated amount not to exceed \$23,846 which will be funded through the Certified Local Government Grant Program; rejecting all other bids; and authoring the Mayor or City Administrator execute contract documents

**Order 26,640**- approving the creation of a Cumberland Covid-19 Loan Program repurposing \$106,000 in funds from the City's Lenders Loan Program to assist small businesses in the payment of qualifying expenses

Mr. Rhodes advised that this program helps small businesses that aren't able to take advantage of State and Federal Covid-19 programs. He stated that these loans are deferred for the first six months, allowing business owners to get back on their feet and are interest-free. He added that the loans are to be paid back in 5 years, and said more information is provided on the CEDC's website.

Mayor Morriss advised on the latest information from the Health Department regarding the Covid-19 pandemic, stating there has been one more fatality, which brings Allegany County fatalities to 13. The Mayor advised that there are now 128 positive cases, with 34 in the general public, and the rest in nursing facilities. He said we need to continue to flatten the curve by complying with the Governor's orders to stay home unless out on essential errands or work, and reminded all to wear a face mask in retail establishments and while on public transportation.

**IX. Public Comments**

No comments

All public comments are limited to 5 minutes per person

**X. Adjournment**

With no further business at hand, the meeting adjourned at 6:45 p.m.

Minutes approved on \_\_\_\_\_

Raymond M. Morriss, Mayor

ATTEST: Marjorie A. Woodring, City Clerk

# Mayor and City Council of Cumberland

## Closed Session Minutes

City Hall, 57 N. Liberty Street, Cumberland, MD 21502

Second Floor Conference Room

Tuesday, May 5, 2020, 5:05 p.m.

The Mayor and City Council convened in open session at 5:05 p.m. for the purpose of closing the meeting for an executive session pursuant to Section 3-305 (b) (4) and (7) of the General Provisions Article of the Annotated Code of Maryland to receive legal advice regarding proposed changes to the City Charter and to discuss matters pertaining to the merger of the Cumberland Economic Development Commission (CEDC) with Allegany County, and to receive legal advice regarding the installation of a utility line.

**MOTION:** Motion to enter into closed session was made by Council Member Marchini, seconded by Council Member Cioni, and was passed on a vote of 5-0.

**PRESENT:** Raymond M. Morriss, President; Council Members, Seth Bernard, Richard Cioni, Eugene Frazier, and Laurie Marchini.

**ALSO PRESENT:** Jeffrey D. Rhodes, City Administrator; Michael S. Cohen, City Solicitor; Marjorie Woodring, City Clerk; Bobby Smith, City Engineer

**File Attachments for Item:**

Public Hearing - presentation of preliminary data findings pertaining to the 2020 Analysis of Impediments to Fair Housing provided by Manuel Ochoa from the consultant firm LSA. The Analysis of Impediments report will provide a plan of action by which Community Development Block Grant (CDBG) funds and other resources will be leveraged to affirmatively further fair housing and to address impediments.

To provide public comment during the video conference, citizens must go to the following webpage on Zoom

Meeting:<https://us02web.zoom.us/j/86745605034?pwd=Qi9xSHptZmpZMitrYy9EM1VpeGdkZz09>

and use Meeting ID (867 4560 5034) Password (868849).

To join by phone dial: (+1 301 715 8592); Meeting ID: (867 4560 5034) Password: (868849)

Citizens wishing to speak will be placed in a waiting room and will be called upon at the appropriate time.

Written public comment may also be made by emailing the City Clerk at [margie.woodring@cumberlandmd.gov](mailto:margie.woodring@cumberlandmd.gov). All electronic comments must be submitted by 2 PM on June 2, 2020. Comments received will be read by City staff during the public comment portion of the meeting.

# **CITY OF CUMBERLAND**

## **COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

### **2020 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING PUBLIC HEARINGS**

### **PUBLIC NOTICE**

This is to notify the public that the **City of Cumberland** is analyzing impediments to fair housing within the City of Cumberland. The final Analysis of Impediments document will provide a plan of action by which Community Development Block Grant Program funds and other resources will be leveraged to affirmatively further fair housing and to address impediments.

The City of Cumberland will be holding a Public Hearing on Tuesday, June 2, 2020 at 6:15 p.m. during the regular Mayor & City Council Meeting to present preliminary data findings. Please see the agenda posted on the City website for the virtual livestream meeting forum during the COVID-19 pandemic. The meeting room is handicap accessible if held on-site. Anyone needing additional accommodations should contact the Department of Community Development, Lower Level, City Hall at least 3 days prior to the meeting to make necessary arrangements.

**A PUBLIC FOCUS GROUP WILL BE HELD ON  
THURSDAY, MAY 28, 2020 AT 1 P.M. BY ZOOM VIRTUAL MEETING FORUM**

The forum will consist of a brief overview and discussion of the survey, data, and map analysis provided by LSA Consultants and consultation with residents regarding three topics: Discrimination in Housing, Barriers to Affordable Housing, and Discrimination in Housing to Persons with Disabilities. Please submit your interest in attending the focus group meeting by Wednesday, May 27, 2020 to the City of Cumberland Department of Community Development, City Hall, 57 N. Liberty Street - Lower Level, Cumberland, Maryland 21502 or contact Ms. Lee Borrer within the Department of Community Development at 301-759-6437 or TDD # 1-800-735-2258 or [lee.borrer@cumberlandmd.gov](mailto:lee.borrer@cumberlandmd.gov).

A second Public Hearing will be held on Tuesday, July 21, 2020 (see agenda for meeting format confirmation) at 6:15 p.m. during the Mayor & City Council meeting at City Hall or by virtual livestream to receive comments on the DRAFT Analysis of Impediments. A Zoom Interactive Meeting for the same purpose will be held on Wednesday, July 22, 2020 at 2 p.m. Please visit [www.ci.cumberland.md.us](http://www.ci.cumberland.md.us) Community Development Department for meeting details or contact Lee Borrer for additional information.

A 30-day period affording the public opportunity to comment on the DRAFT Analysis of Impediments document will begin on June 26, 2020 and end on July 27, 2020. Written comments may be submitted to Ms. Lee Borrer. Final adoption of the 2020 Analysis of Impediments to Fair Housing will occur at the regular Mayor & City Council meeting on Tuesday, August 4, 2020.

All questions and comments should be forwarded to Ms. Lee Borrer at 301-759-6437.

Adv. May 13, 2020

# Analysis of Impediments to Fair Housing Choice

## Cumberland, Maryland

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Mayor & City Council  
June 2, 2020



# Agenda

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I. Introduction

II. What is Fair Housing? What is the AI?

III. What Have We Learned?

IV. Next Steps

V. Questions

# What Does the Fair Housing Act Address?

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## Under Most Housing Situations

- Refusal to rent or sell housing
- Refusal to negotiate for housing
- Make housing unavailable or deny a dwelling
- Set different terms, conditions, or privileges
- Falsely deny housing is available for inspection, sale or rental
- Persuade owners to sell or rent for a profit (blockbusting)
- Deny access to or membership in a facility or service (multiple listing service)

## In Mortgage Lending

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans or available loan terms
- Impose different conditions, higher interest rates, additional points or fees
- Discrimination in appraisals
- Refuse to purchase or set different conditions for purchasing a loan

## Other

- Threaten, coerce, intimidate, or interfere with anyone with their right to housing



# Protected Classes

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Fair housing choice protects those regardless of:



DISABILITY



RACE



SEX



COLOR



NATIONAL  
ORIGIN



RELIGION



FAMILY  
STATUS

# Protected Classes Under Fair Housing Laws

	Federal Fair Housing Act	Maryland Human Relations Act
Race	•	•
Color	•	•
National Origin	•	•
Religion	•	•
Sex	•	•
Familial Status	•	•
Disability	•	•
Marital Status		•
Sexual Orientation		•
Age		
Occupation		
Political Opinion		•
Personal Appearance		•
Source of Income		

# What about for Persons with Disabilities?

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- Refuse or deny reasonable modifications to a housing unit at the disabled persons expense
- Refuse to make “reasonable accommodation” in rules, policies, practices, or services for persons with disabilities in the use of housing.
- Universal design in the construction of housing



# What is Affirmatively Furthering Fair Housing?

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- The Fair Housing Act also went one step further with the intention of dismantling the causes for segregation
- The Act states that “[a]ll executive departments and agencies shall administer their program and activities relating housing and urban development (including any federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter.”

# Analysis of Impediments?

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- The Housing and Community Development Act of 1974 (as amended), requires any community that receives Community Development Grants Funds (CDBG) “affirmatively further fair housing.”
- Applies to all HUD grants funds including HOME Investment Partnerships Program (HOME) and Emergency Solutions Grant (ESG).
- Requires all urban counties and cities that directly receive HUD funds (aka Entitlement Communities) to certify that each grantee is complying with the Fair Housing Act of 1968 and related laws and regulations.
- Also known as a fair housing plan or assessment of fair housing.

# Analysis of Impediments (AI) to Fair Housing Choice

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## **What is an Analysis of Impediments?**

An Analysis of Impediments analyzes the disparities in access to opportunity among protected classes and identifies factors that have contributed to disparate access.

## **Why is Cumberland conducting an AI?**

The completion of an AI is required of all localities receiving funding from HUD. The AI will outline specific goals and actions steps for the City to advance fair housing, expand housing choice, mitigate economic and racial segregation, and target investments in communities that are most in need.

# What We Are Doing?

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The Analysis of Impediments we are conducting will:

- Provide an AI as required in conjunction with the City's HUD Consolidated Plan
- Evaluate local data for each protected class such as population, income, etc.
- Evaluate local policies and laws that limit fair housing choice
- Identify (direct and indirect) impediments to fair housing choice
- Recommend specific strategies to overcome the effects for each identified impediment
- Mayor & City Council adopts Analysis of Impediments after incorporating changes and suggestions from the public

# HUD Certification

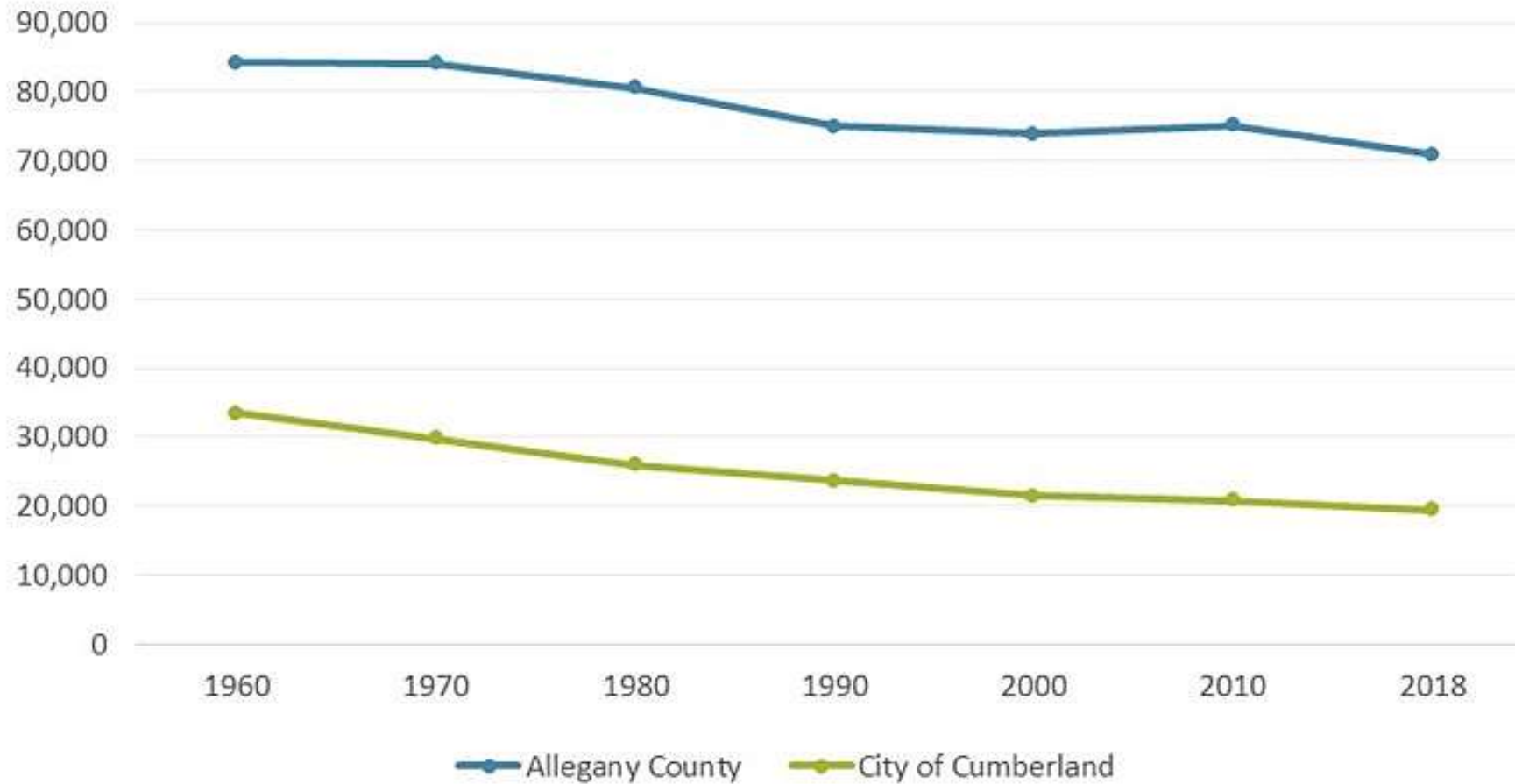
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HUD will certify that the City of Cumberland has:

- Analyzed housing discrimination and working towards its elimination
- Promoted fair housing choice for all
- Provided racially and ethnically inclusive patterns of housing
- Promoted housing accessible and usable to persons with disabilities
- Promoted and enforced the Fair Housing Act and related laws and regulations

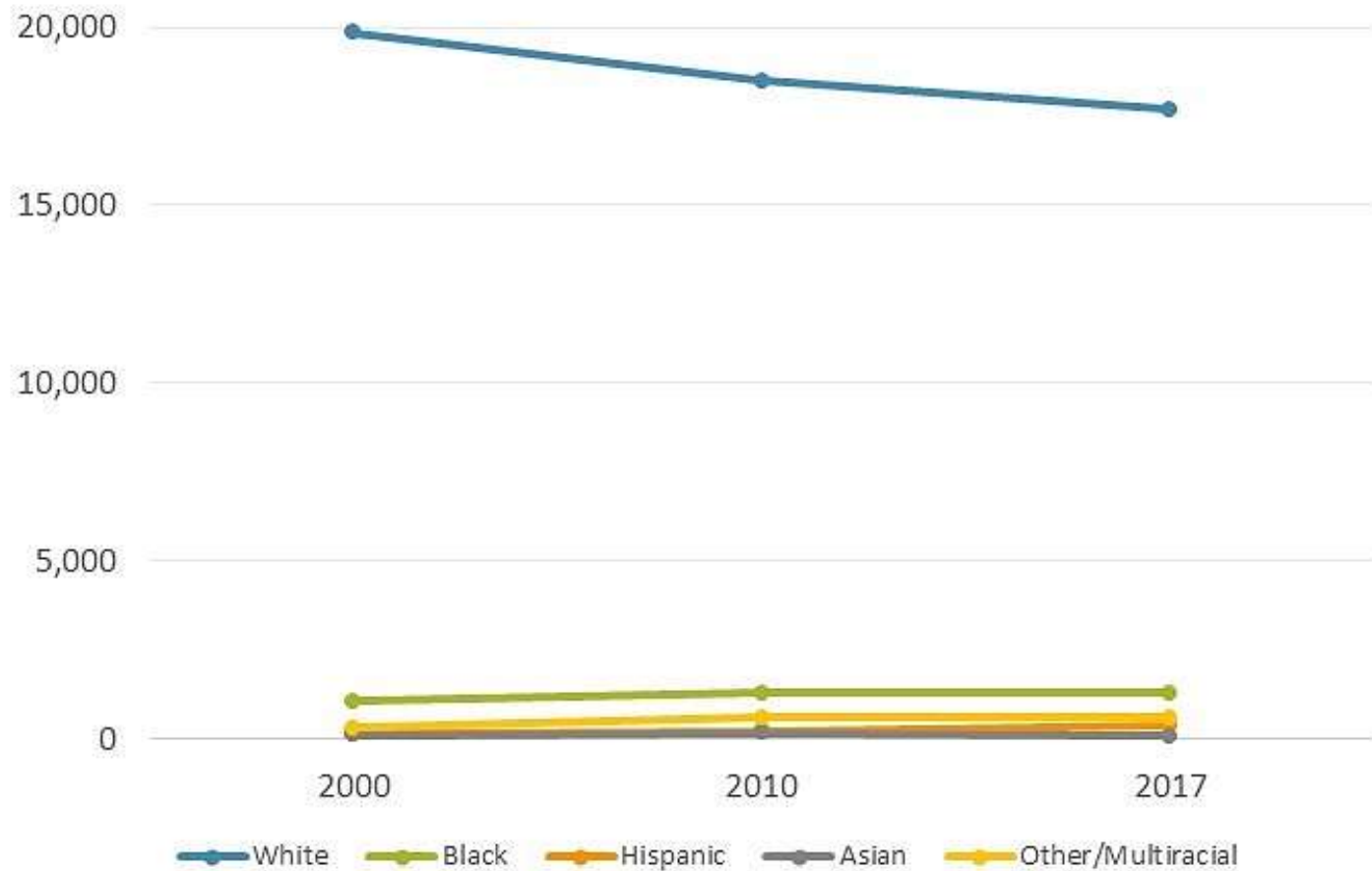


# Population, 1960 - 2018

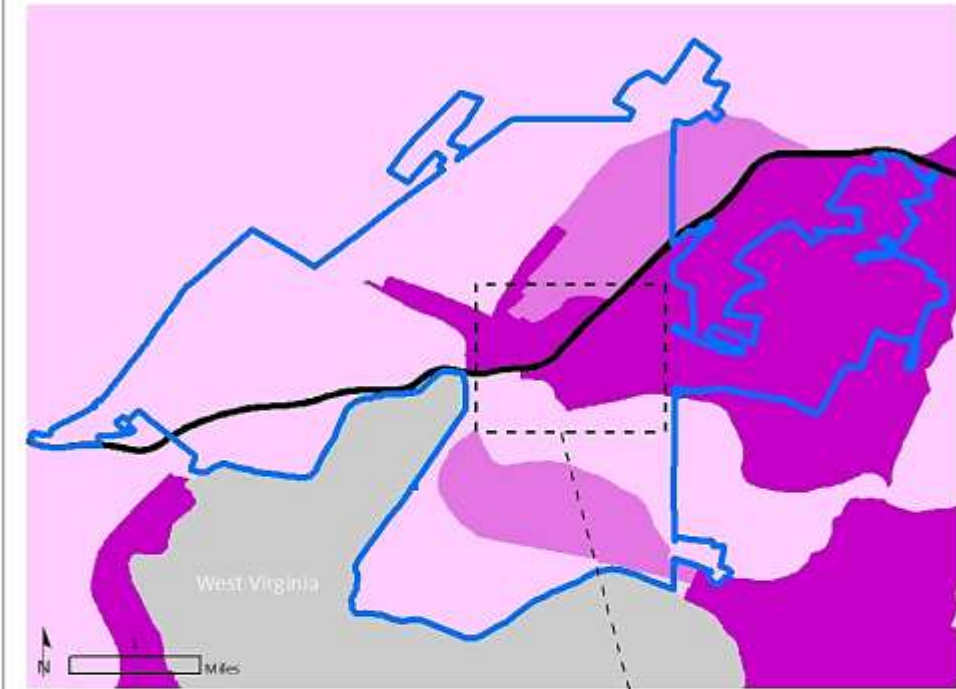


# Race/Ethnicity

## City of Cumberland



Percentage Non-White Population by Census Block Group, Cumberland MD, 2017



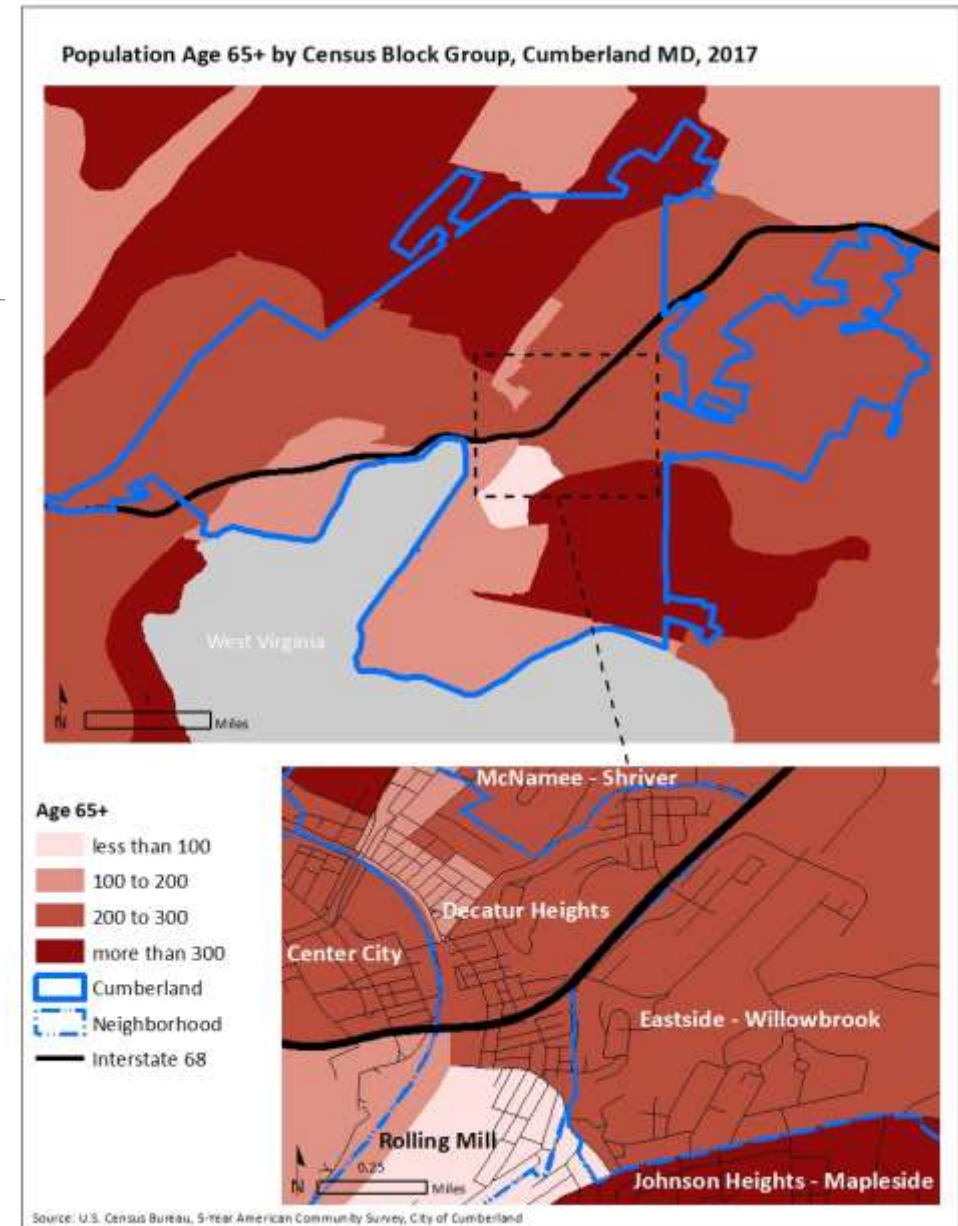
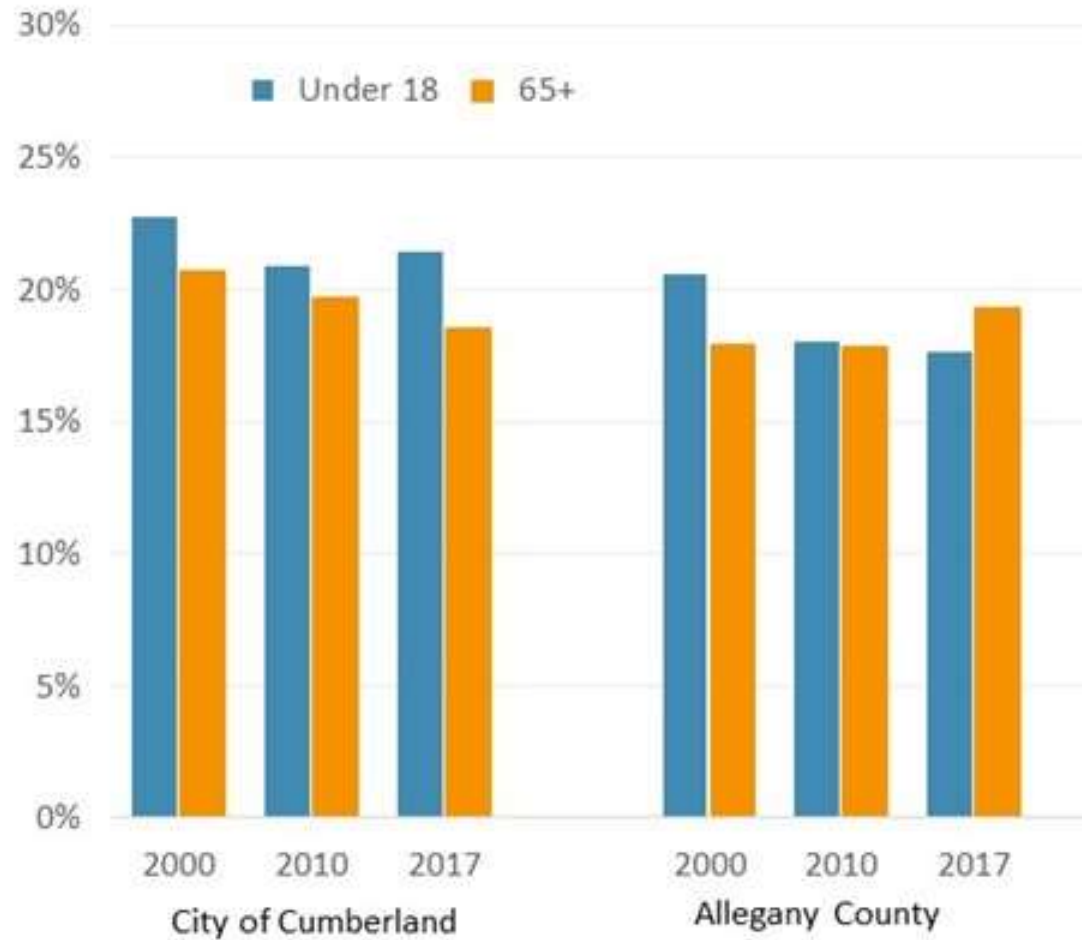
**Percent Non-White**

- less than 10%
- 10% to 20%
- more than 20%
- Cumberland
- Neighborhood
- Interstate 68

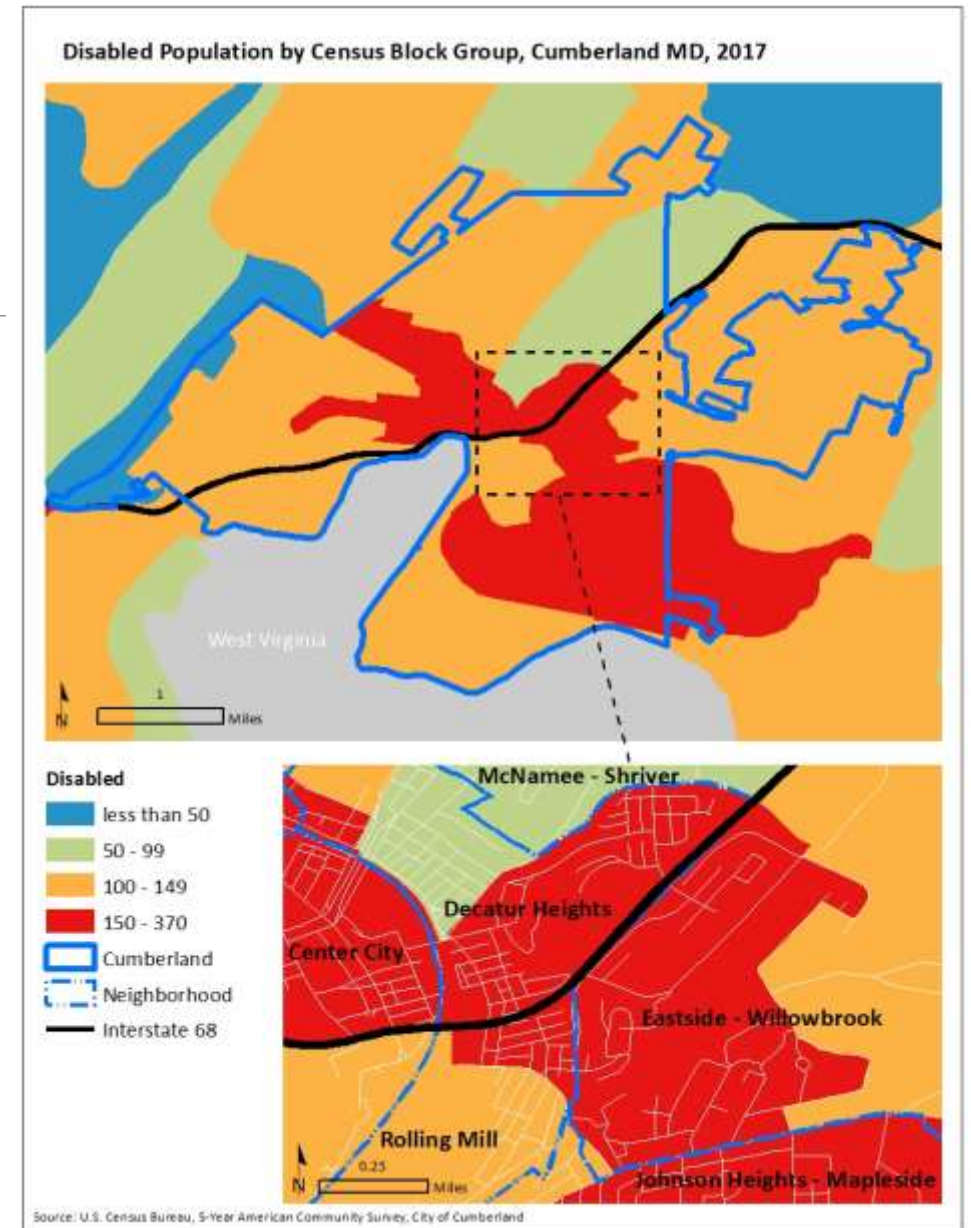
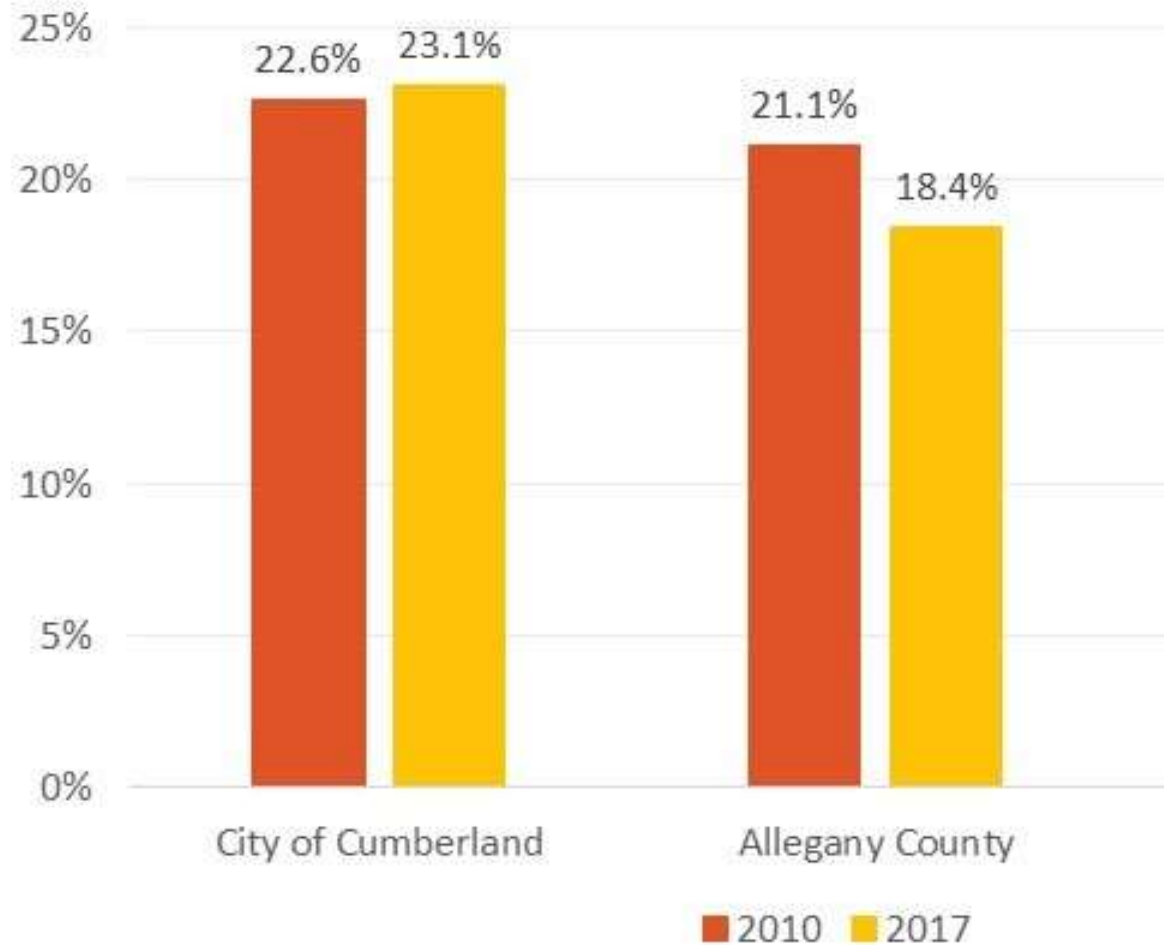


Source: U.S. Census Bureau, 5-Year American Community Survey, City of Cumberland

# Seniors and Children



# Persons with Disabilities

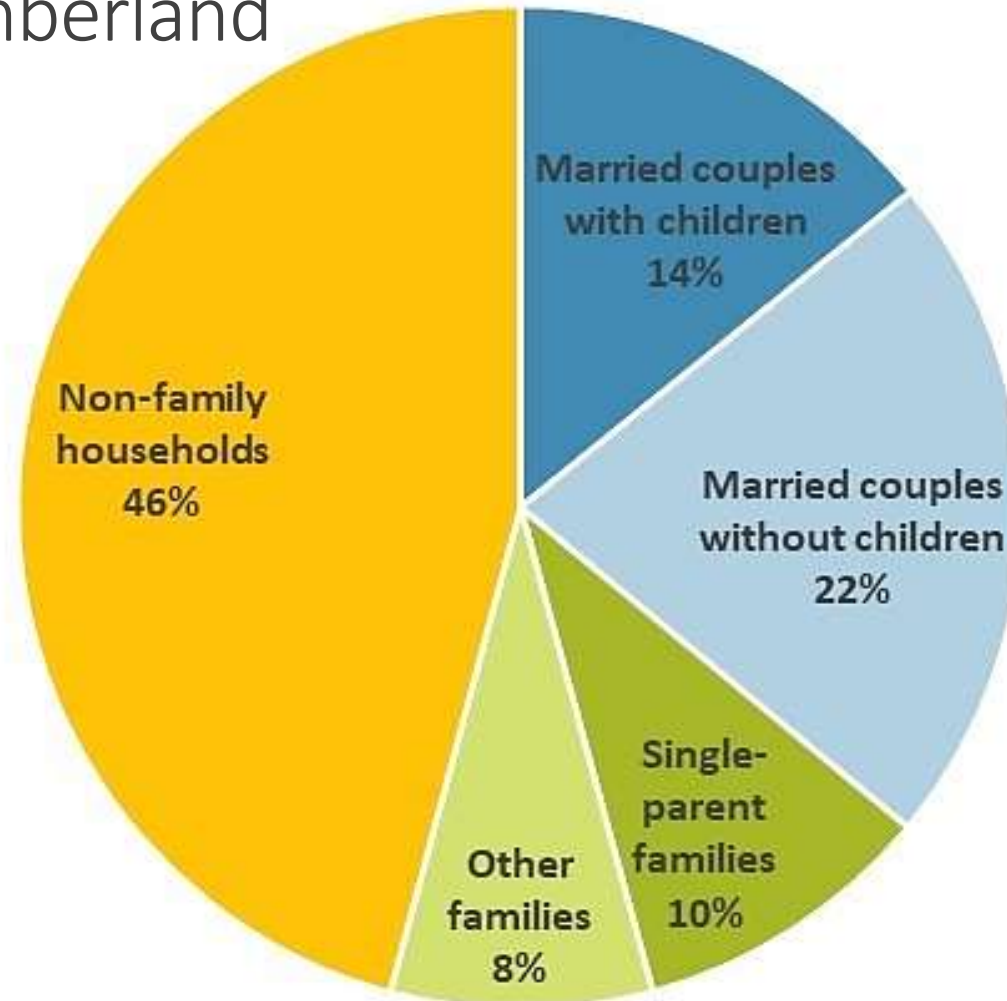




# Household Types, 2017

## City of Cumberland

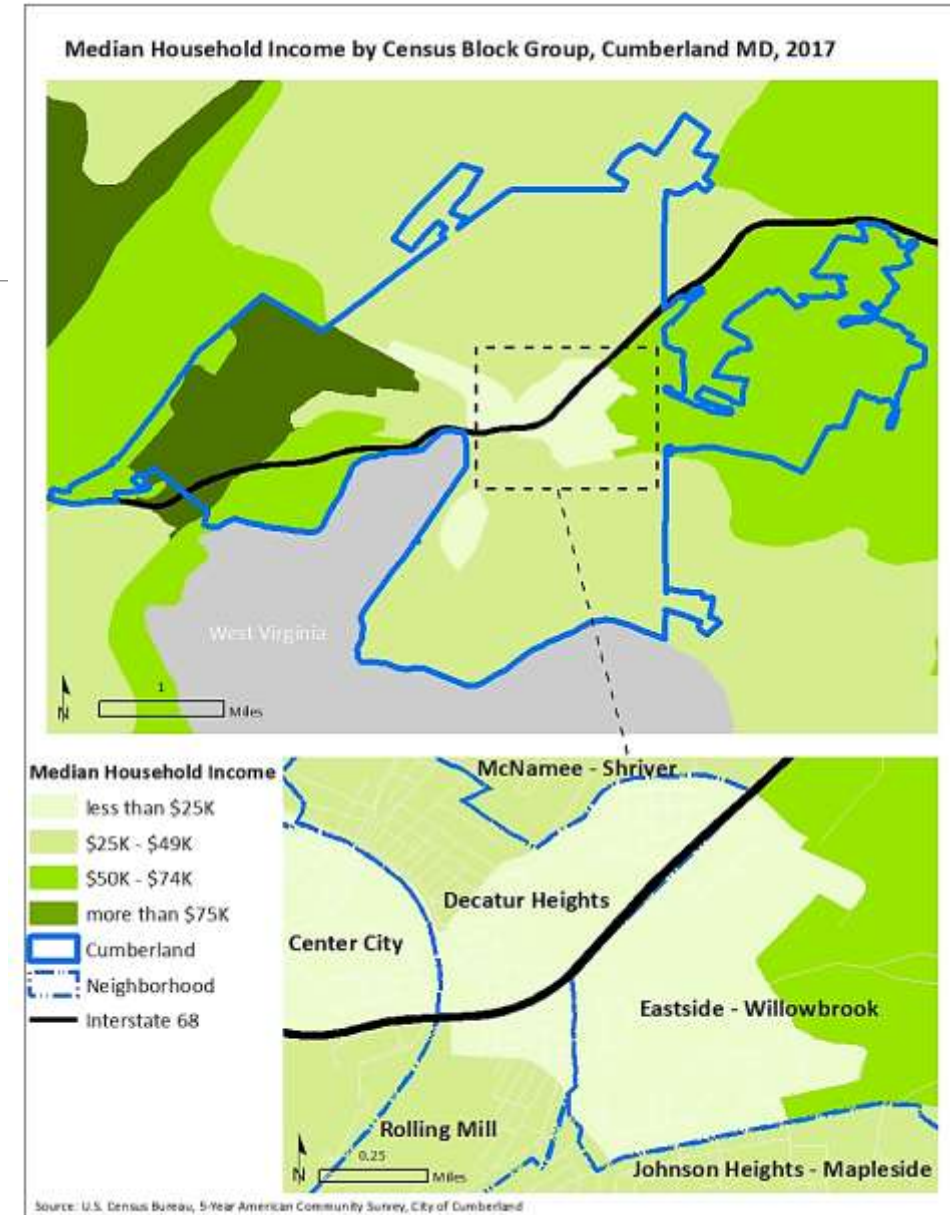
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## Poverty Rates by Race/Ethnicity, 2000 - 2017

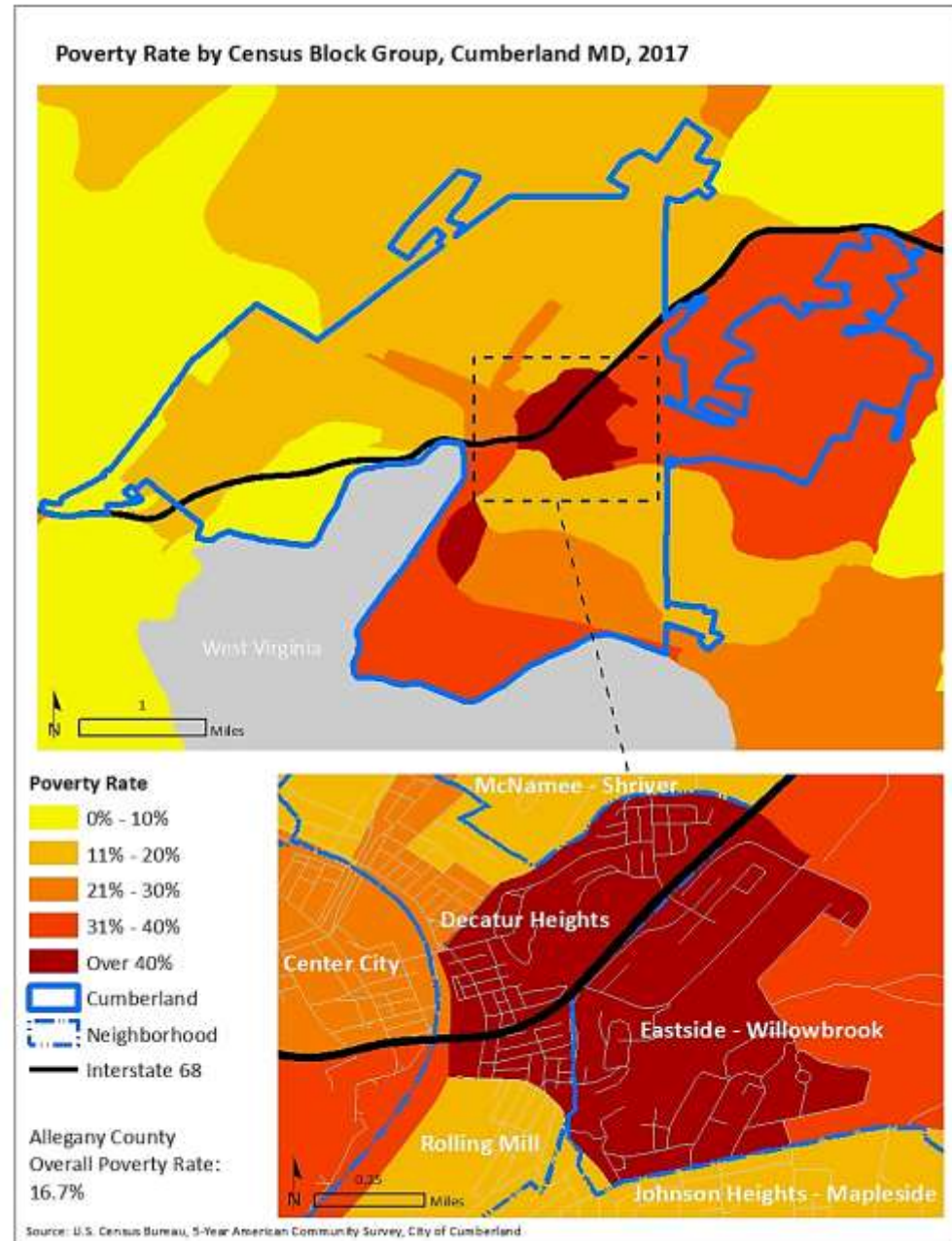
	City of Cumberland			Allegany County		
	2000	2010	2017	2000	2010	2017
All residents	19.8	19.1	24.4	14.8	14.5	16.8
White residents	19.3	17.5	22.0	14.3	13.8	15.7
Black residents	23.4	35.2	49.6	32.6	34.9	43.1
Hispanic residents	23.7	37.7	36.5	17.2	15.7	24.9
Asian residents	3.9	12.9	30.3	6.8	14.0	33.3

# Median Household Income, 2017



# Poverty Rates

Poverty is higher in Cumberland than in other parts of the region and the state. Poverty rates are highest in the Decatur and Eastside-Willowbrook neighborhoods.





# Racial Segregation

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## ***City of Cumberland***

## ***Allegheny County***

**2010**

**2017**

**2010**

**2017**

***Black/White***

19.6

38.2

54.5

64.4

***Hispanic/White***

34.9

32.4

40.1

37.3

***Nonwhite/White***

14.5

27.5

42.2

50.1

# Analysis of Impediments to Fair Housing Choice

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How are patterns of segregation and concentrated poverty related to an individual's access to:

- Housing,
- Transportation,
- Employment,
- Education, and
- Healthy Neighborhoods

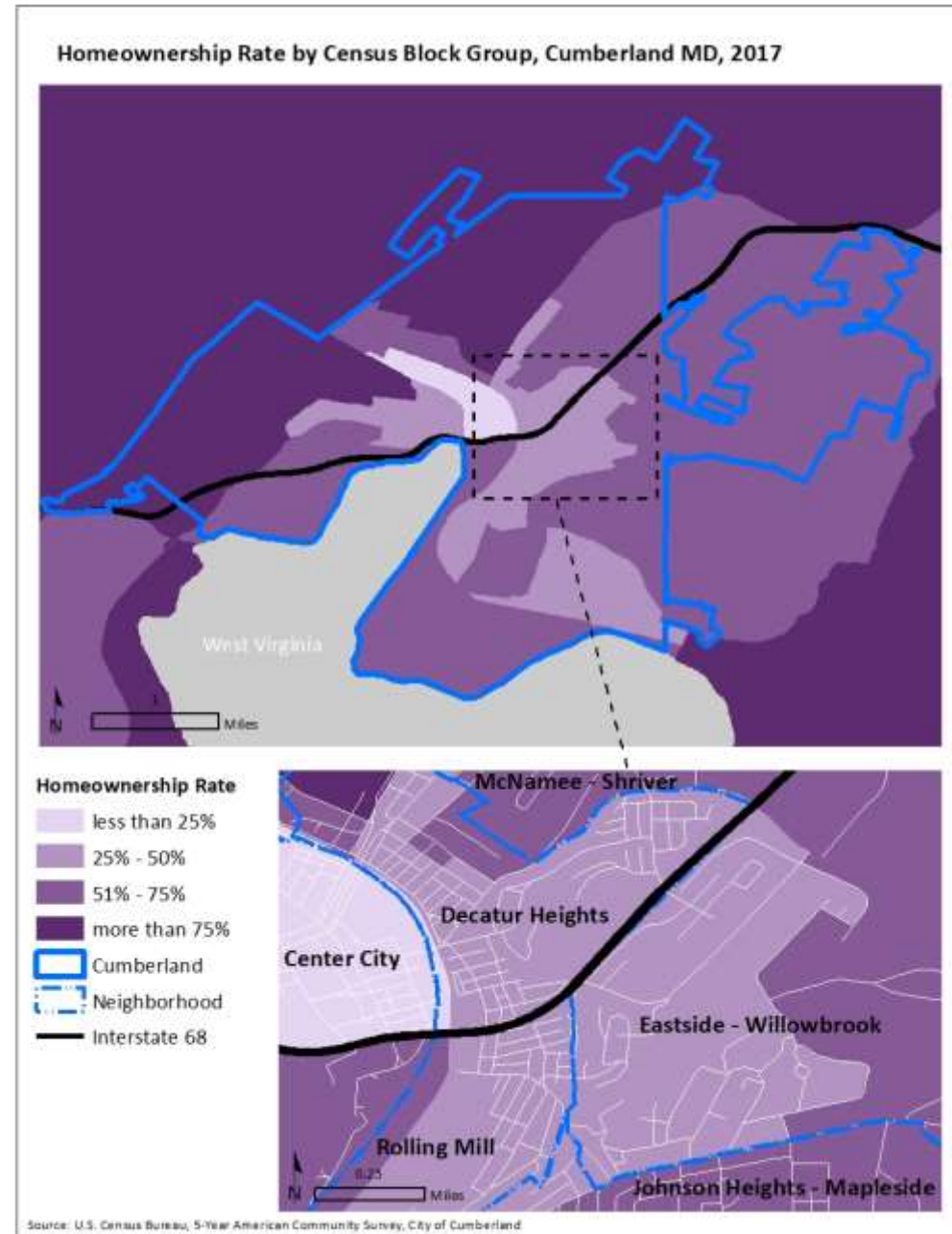
And what **public-sector** and **private-sector** activities contribute to disparate access?

# Housing

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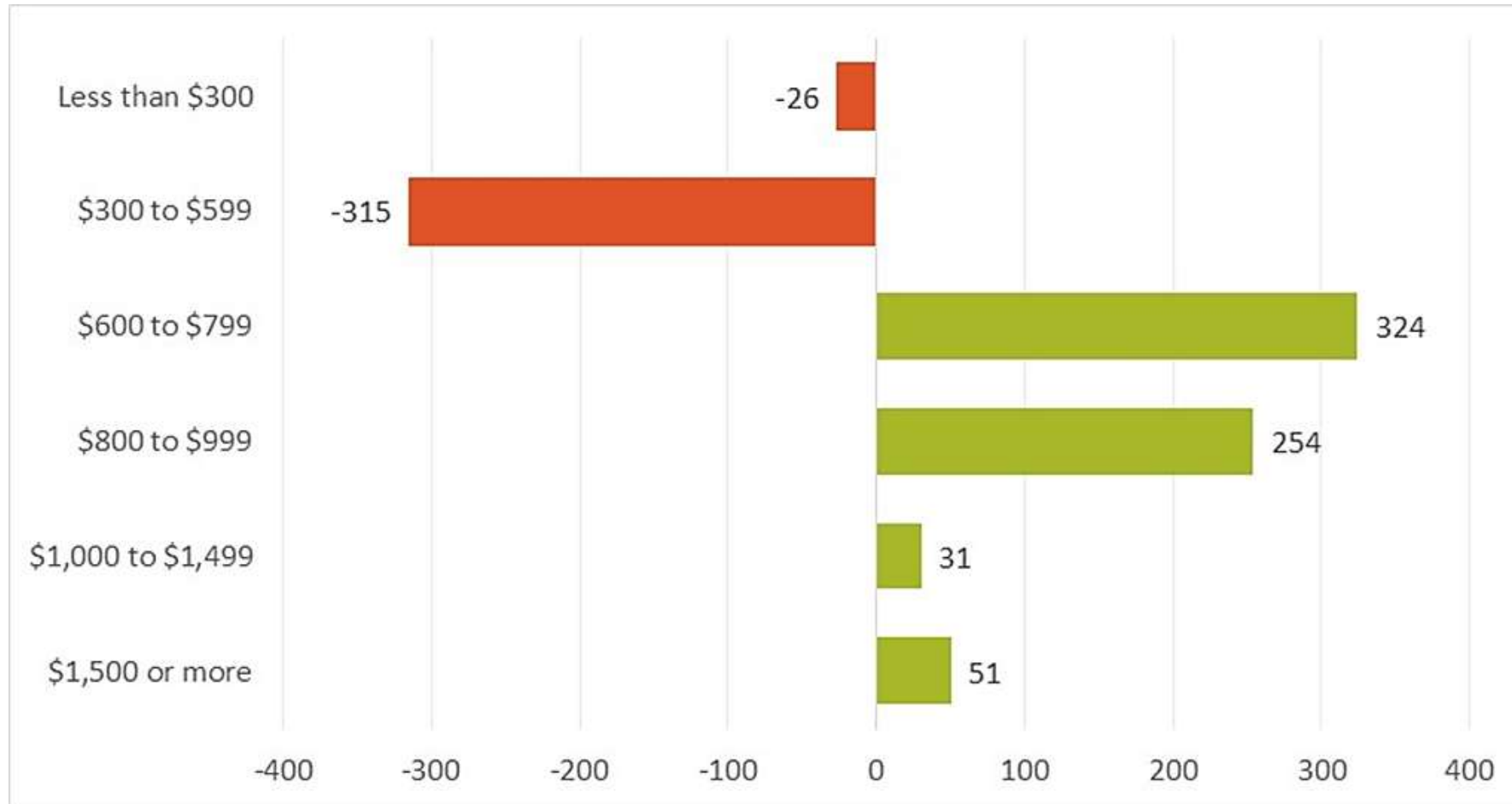
# Homeownership Rates

Homeownership rates are highest in the Haystack-Dingle and Wills neighborhoods. Homeownership rates on the inset are lowest where non-white population and poverty rates are highest.



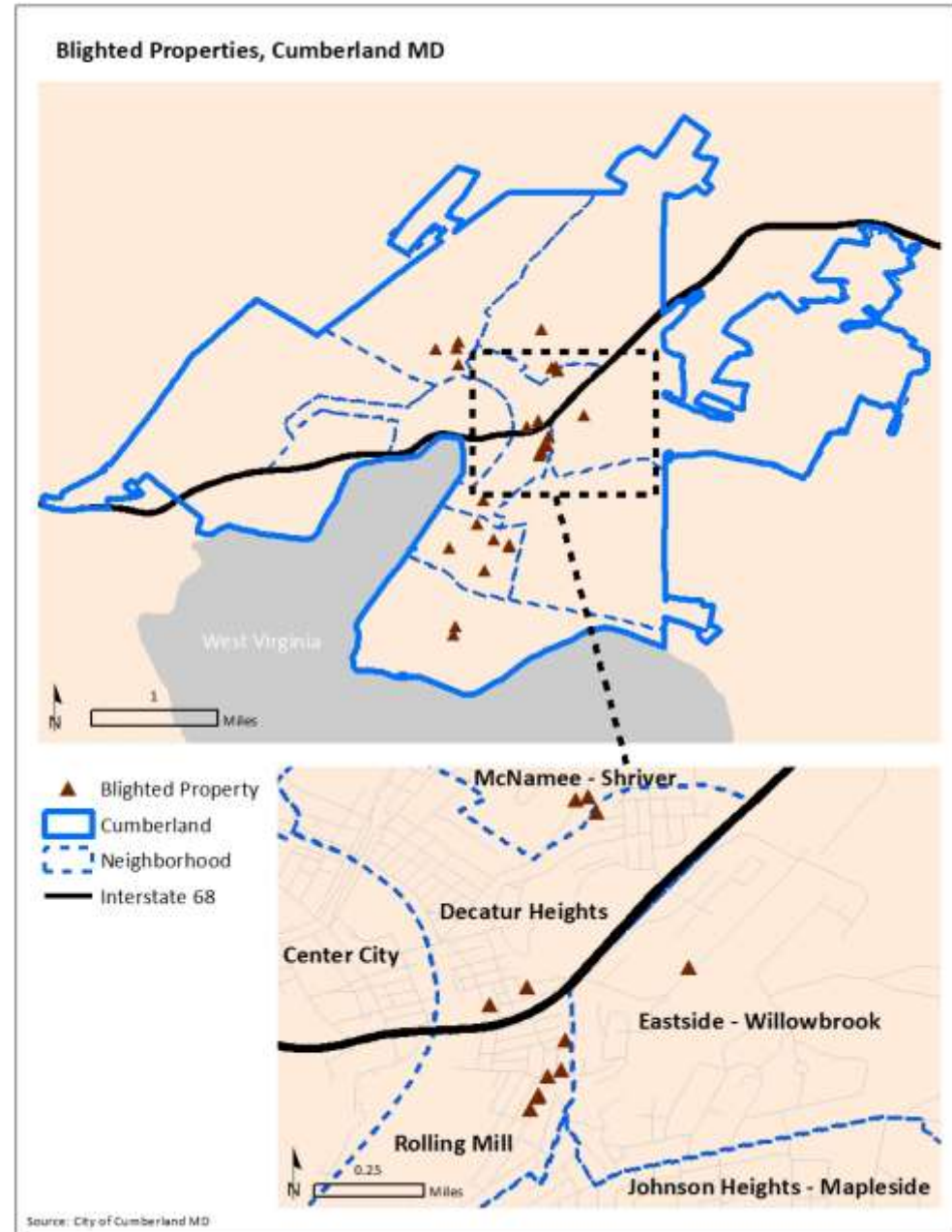
# Change in Rental Units by Rent, 2010 – 2017

City of Cumberland, MD



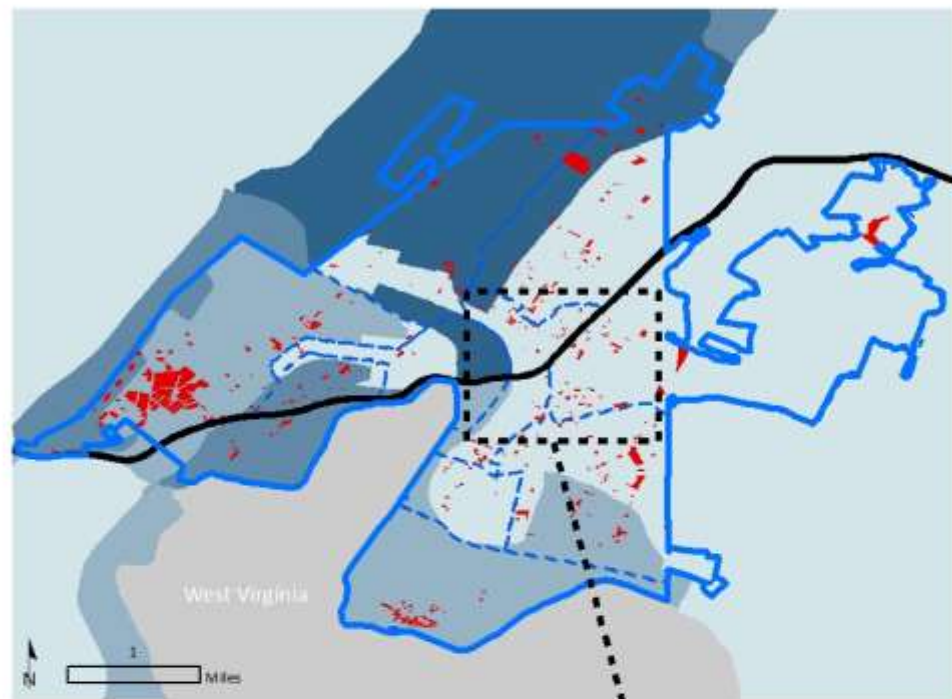
# Blighted Properties

Blighted properties are concentrated near Downtown, particularly in the Rolling Mill neighborhood.





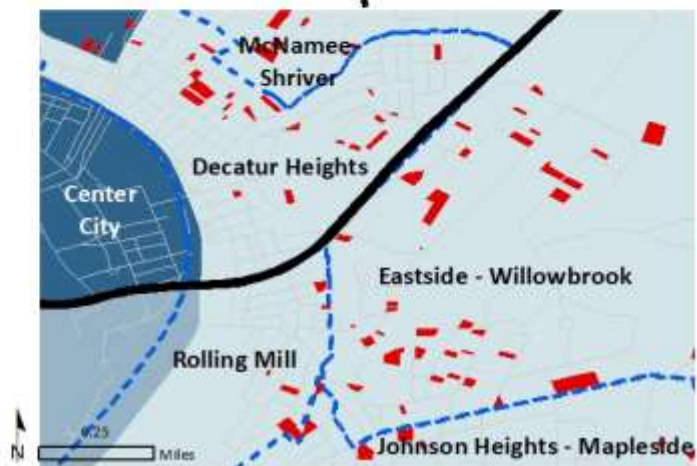
Percentage Black by Census Block Group and Vacant Properties, Cumberland MD, 2017



% Population - Black

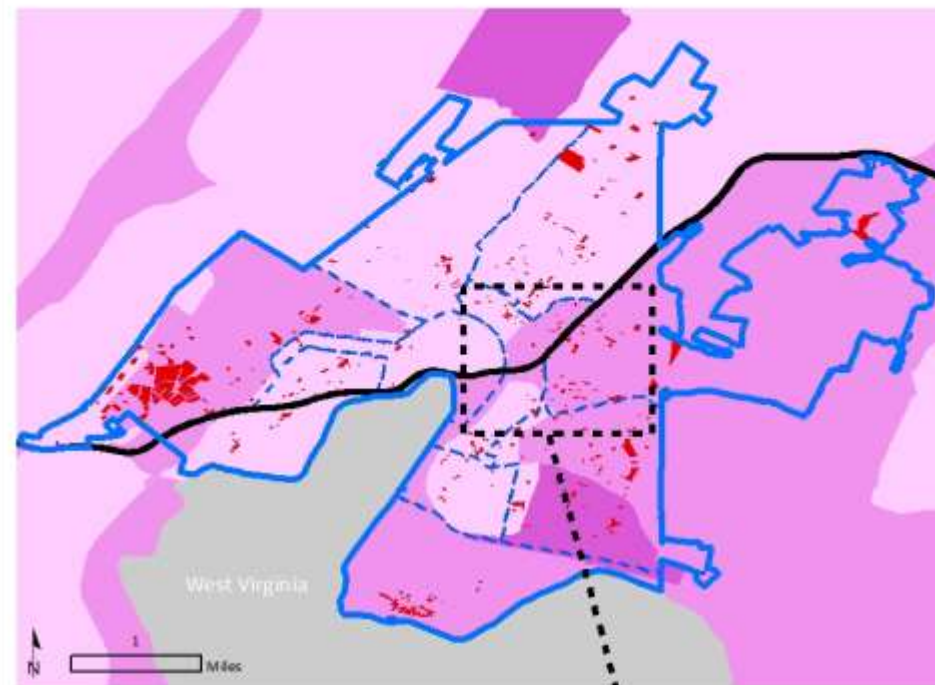
- less than 3%
- 3% - 5%
- 6% - 9%
- 10% or more

- Vacant Parcel
- Cumberland
- Neighborhood
- Interstate 68



Source: U.S. Census Bureau, 5-Year American Community Survey, City of Cumberland

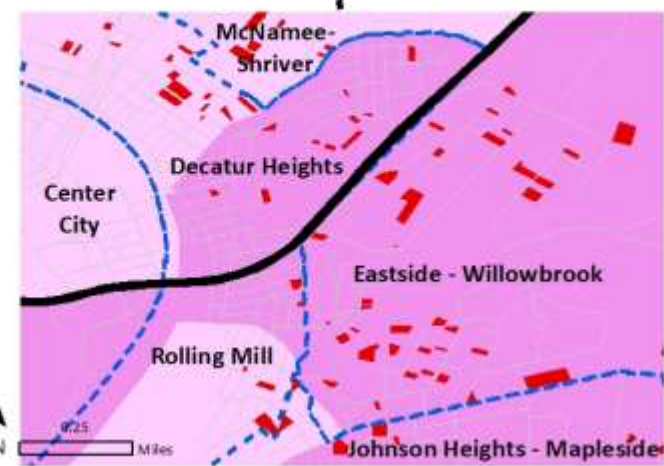
Percentage Hispanic by Census Block Group & Vacant Properties, Cumberland MD, 2017



% Population - Hispanic

- less than 1%
- 1% - 3%
- 4% - 6%
- 7% or more

- Vacant Parcel
- Cumberland
- Neighborhood
- Interstate 68



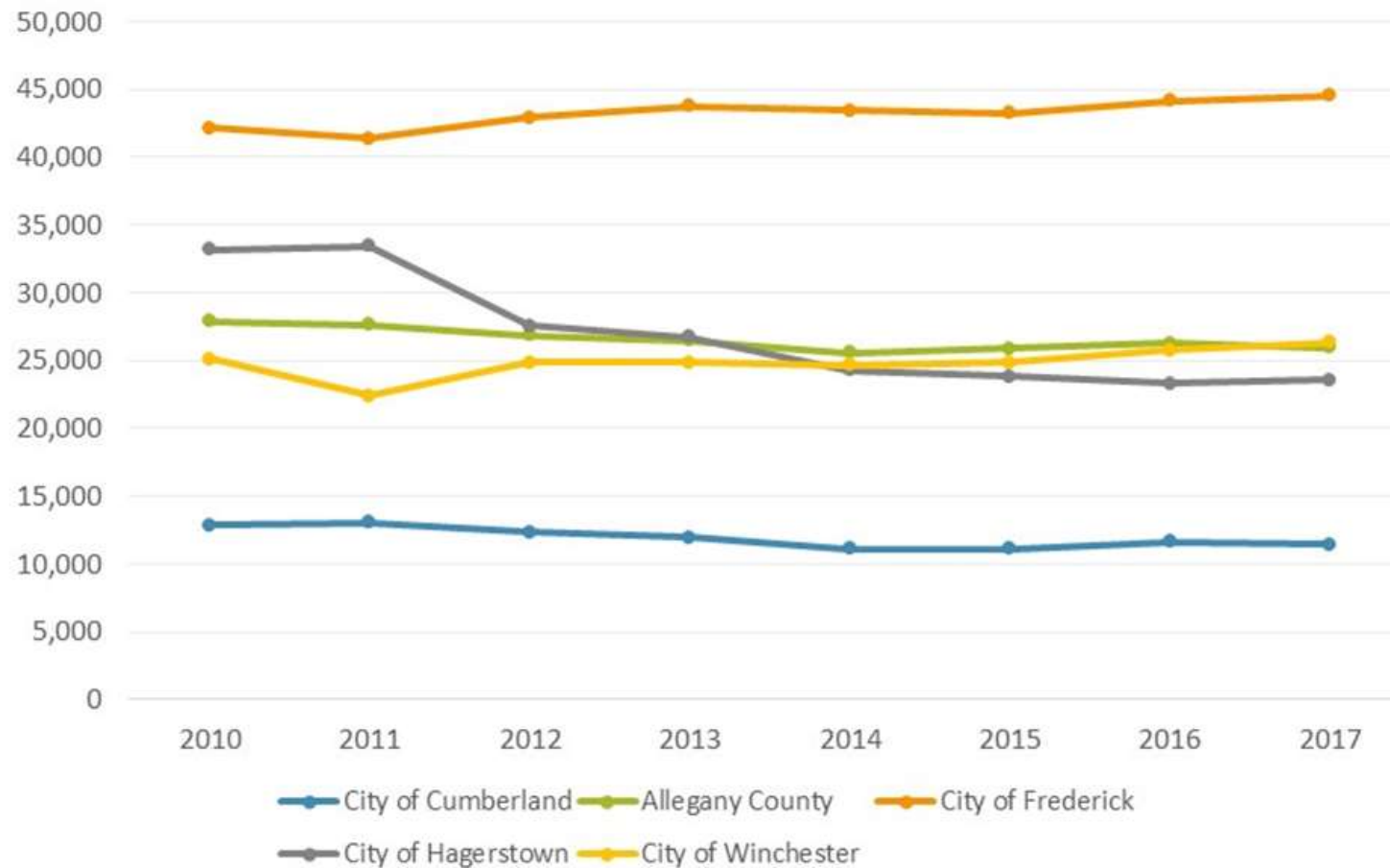
Source: U.S. Census Bureau, 5-Year American Community Survey, City of Cumberland

# Employment

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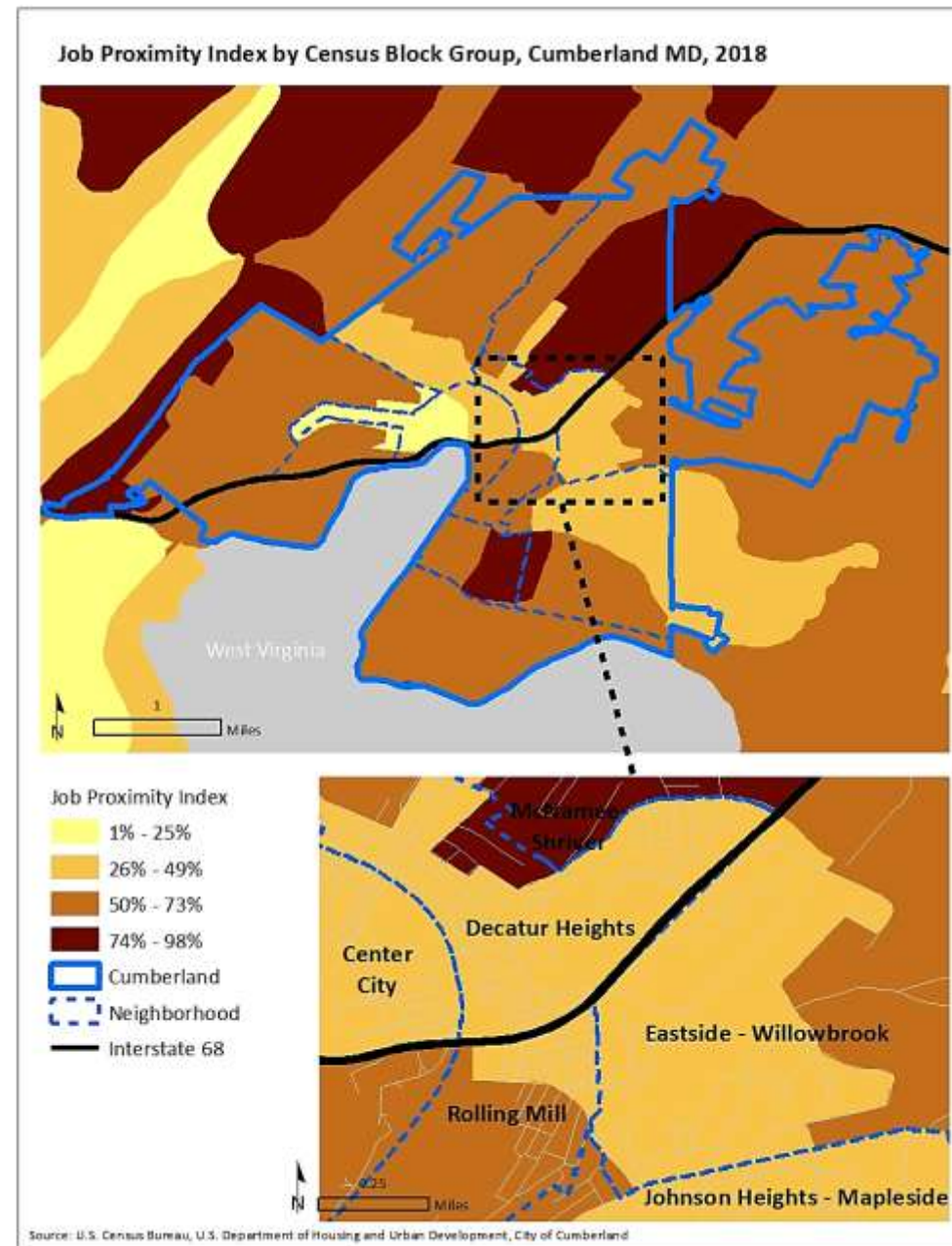


# Employment Trends, 2010 - 2017



# Job Proximity Index

Neighborhoods outside of the downtown area tend to have greater access to regional jobs, with the exception of the Shriver-McNamee neighborhood where the health center is located.

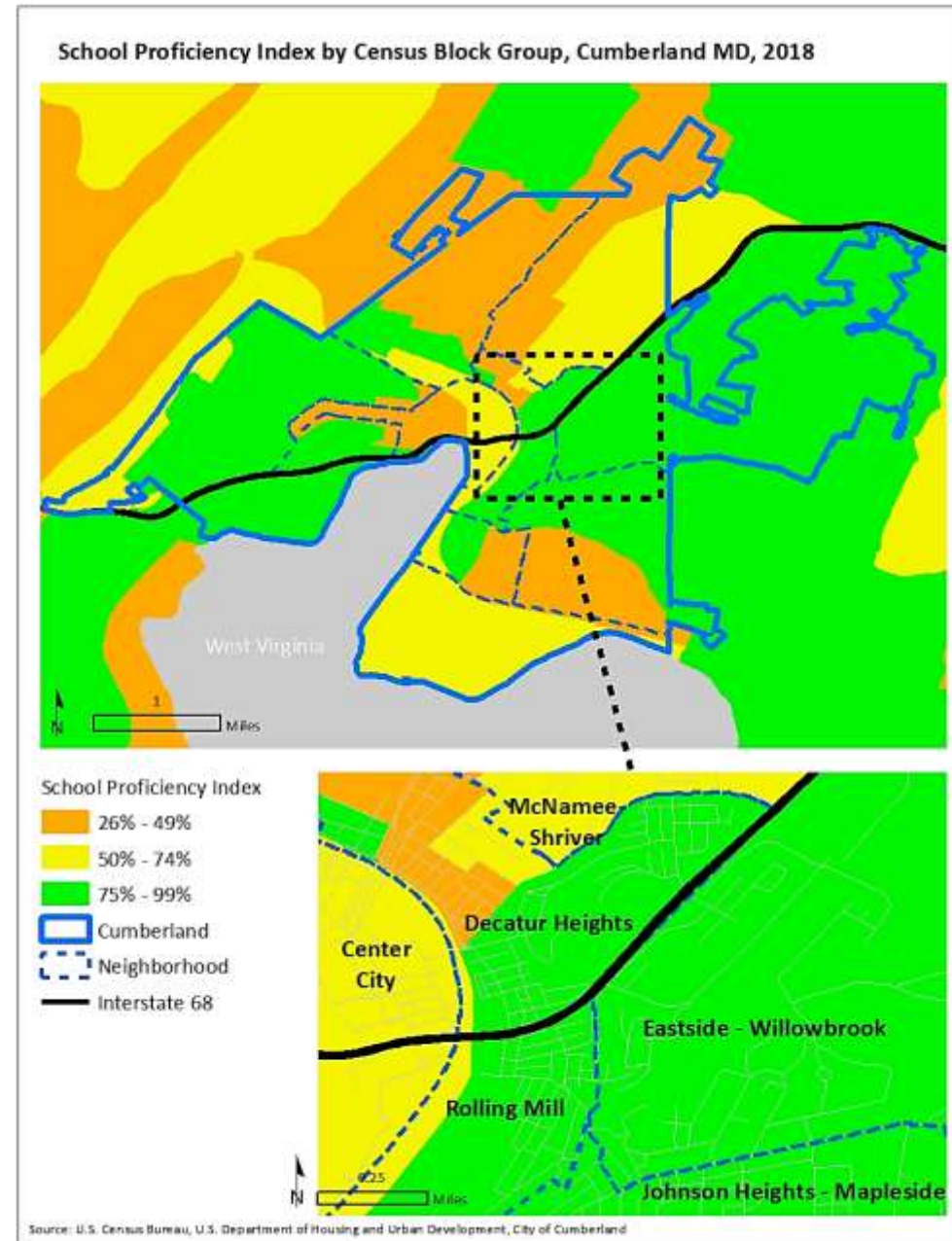


# Education

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# School Proficiency Index

School quality is highest in both the eastern and western parts of the City, as measured by 4<sup>th</sup> grade test scores and other school and neighborhood attributes.

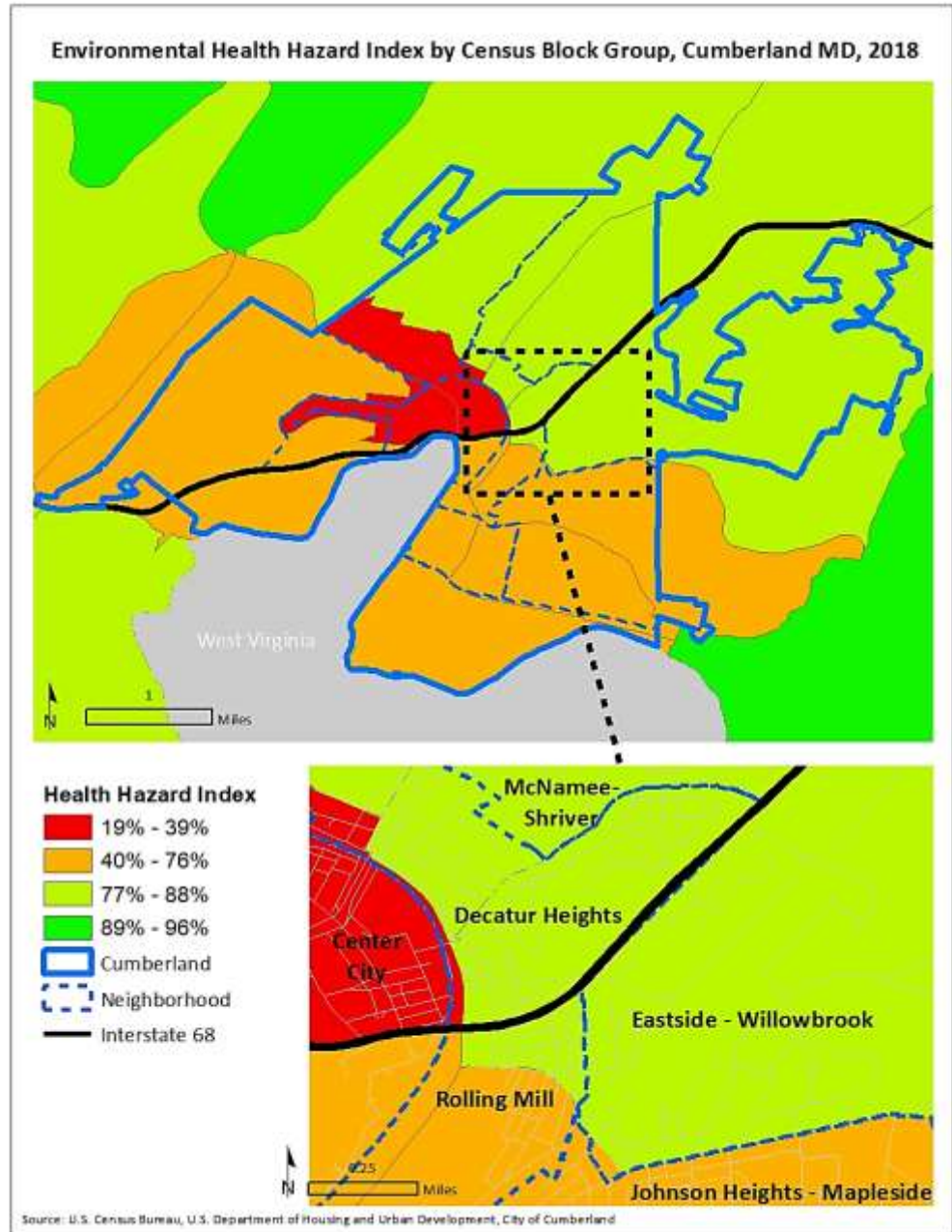


# Healthy Neighborhoods

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# Environmental Health Hazard Index

The most healthy places, as measured by air quality carcinogenic, respiratory, and neurological hazards, are outside of the Center City area of Cumberland.





# How the AI Can Inform the Allocation of Resources?

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## **Place-based Strategies – Neighborhoods and Communities**

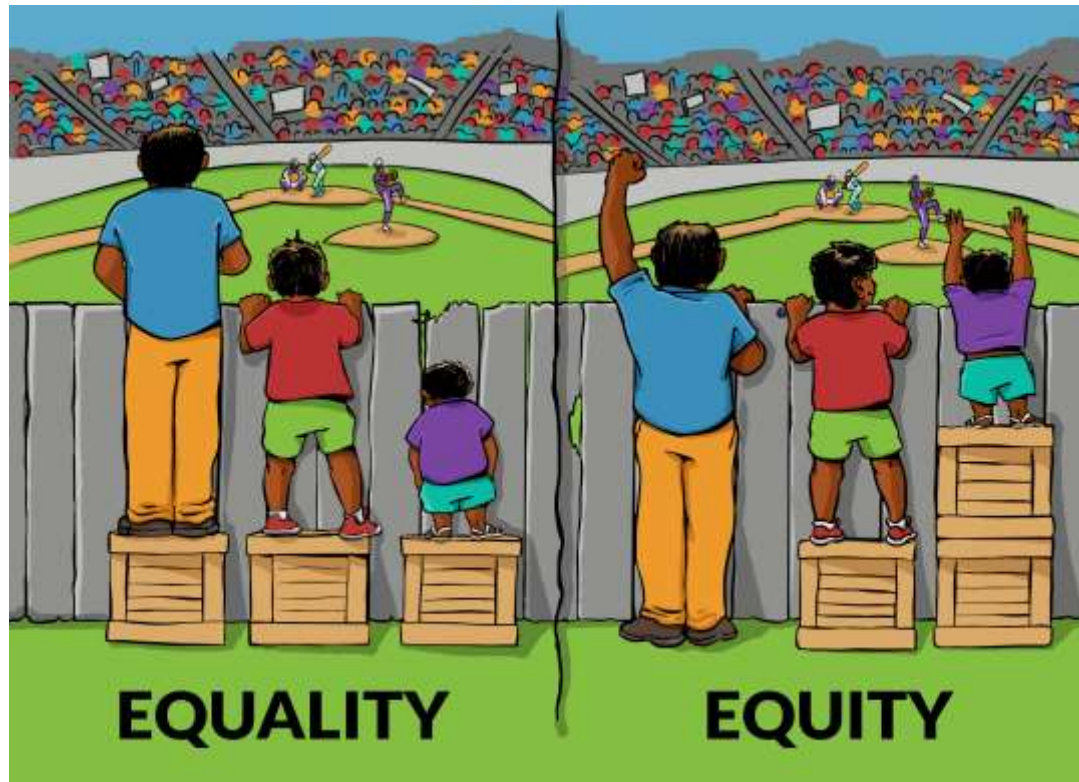
- Making investments in places that are distressed
- Maintaining or preserving affordable housing stock in specific places

## **Mobility Strategies – People**

- Moving individuals and families out of poverty to places with better schools or better access to jobs
- Building affordable housing in neighborhoods with better access to jobs (Metro), schools, and amenities (parks, recreation)

# Equality vs Equity

- Equality: Treating everyone the same.
- Equity: Giving everyone what they need to be successful.





# Schedule

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## **Public Meetings & Milestones:**

- May 28<sup>th</sup> – 1<sup>st</sup> Public Meeting & Discussion
  - June 2<sup>nd</sup> - Public Hearing at Mayor & Council Mtg
  - July 21<sup>st</sup> - 2<sup>nd</sup> Public Meeting & Discussion
  - July 22<sup>nd</sup> - Follow-up public meeting
  - June 26<sup>th</sup> – Draft Analysis of Impediments published for 30-day comment period
  - July 27<sup>th</sup> – End of 30-day comment period
  - August 4<sup>th</sup> – Final adoption by Mayor & Council
- 
- **Questions and Comments:** Ms. Lee Borrer at 301-759-6437 or [lee.borrer@cumberlandmd.gov](mailto:lee.borrer@cumberlandmd.gov).

# Project Team Contact

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Lisa Sturtevant: [lisa@lsaplanning.com](mailto:lisa@lsaplanning.com)

Manuel Ochoa: [mochoa@ochoaurbancollaborative.com](mailto:mochoa@ochoaurbancollaborative.com)

**File Attachments for Item:**

Ordinance No. 3865 (*2nd and 3rd readings*) - providing for the closure of two (2) portions of a street known as Park Alley, in the vicinity of Williams Street and Cecelia Street, as requested by Cumberland Gateway Real Estate LLC, and authorizing conveyance of the closed portions to Cumberland Real Estate LLC, as adjoining property owner, with certain easements, reservations, and restrictions incorporated into the deed

## **ORDINANCE NO. 3865**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO PROVIDE FOR THE CLOSURE OF PORTIONS OF A STREET KNOWN AS PARK ALLEY, RUNNING FROM THE NORTHERN RIGHT OF WAY LINE OF WILLIAMS STREET TO THE SOUTHERN RIGHT OF WAY LINE OF CECELIA STREET ("AREA #1") AND THEN FROM THE NORTHERN RIGHT OF WAY LINE OF CECELIA STREET NORTH 90 +/- FEET ON THE WEST SIDE OF THE PORTION OF PARK ALLEY BEING CLOSED AND 84.02 +/- FEET ON THE EAST SIDE OF THE PORTION OF PARK ALLEY BEING CLOSED (AREA #2"), THE PORTION OF PARK ALLEY BEING CLOSED DESIGNATED AS AREA #1 LYING BETWEEN THE LANDS OWNED BY CUMBERLAND GATEWAY REAL ESTATE LLC (AS DESCRIBED IN THE DEED RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND IN BOOK 2435, FOLIO 262) ) AND THE LANDS OWNED BY ALTER/SCOTT ACQUISITIONS LLC (AS DESCRIBED IN THE DEED RECORDED AMONG THE LAND RECORDS OF ALLEGANY COUNTY, MARYLAND IN BOOK 2325, PAGE 240) AND THE PORTION OF PARK ALLEY BEING CLOSED DESIGNATED AS AREA #2 LYING BETWEEN LANDS OWNED BY CUMBERLAND GATEWAY REAL ESTATE LLC (AS DESCRIBED IN THE DEED PREVIOUSLY IDENTIFIED HEREIN THE PORTIONS OF PARK ALLEY BEING CLOSED BEING LOCATED IN THE CITY OF CUMBERLAND, MARYLAND."

**WHEREAS**, the Mayor and City Council of Cumberland received a petition from Cumberland Gateway Real Estate LLC, requesting the closure of two portions of Park Alley generally described in the titling of this Ordinance;

**WHEREAS**, the portion of Park Alley being closed which is identified as Area #1 in the titling of this Ordinance is abutted by property owned by Cumberland Gateway Real Estate LLC (which it acquired pursuant to the terms of the deed recorded among the Land Records of Allegany County, Maryland in Book 2435, Page 262) with the exception of the parcel on the northeast corner of Park Alley and Cecelia Street which is owned by Alter/Scott Acquisitions LLC (which it acquired pursuant to the terms of the deed recorded among the aforesaid Land Records in Book 2325, Page 240);

**WHEREAS**, by correspondence from Alter/Scott Acquisitions LLC to the City dated May 13, 2020, Alter/Scott Acquisitions LLC waived its right to have the portion of Park Alley in Area #1 that would have otherwise been granted to it under applicable law, and requested that the City convey the said portion of Park Alley directly to Cumberland Gateway Real Estate LLC;

**WHEREAS**, the portion of Park Alley being closed, which is identified as Area #2 in the titling of this Ordinance, is abutted exclusively by property owned by Cumberland Gateway Real Estate LLC (which it acquired pursuant to the terms of the

deed recorded among the Land Records of Allegany County, Maryland in Book 2435, Page 262);

**WHEREAS**, the City Clerk served a personal notice in writing upon each property owner to be affected by the passage of the proposed Ordinance more than ten (10) days before June 2, 2020;

**WHEREAS**, in the opinion of the Mayor and City Council of Cumberland, the public welfare and convenience require that the aforesaid portions of Park Alley be closed; and

**WHEREAS**, in that Cumberland Gateway Real Estate, LLC owns the parcels of land adjacent to each side of the portions of Park Alley being closed by this Ordinance with the exception of the aforesaid land owned by Alter/Scott Acquisitions LLC, which Alter/Scott Acquisitions waived its interest in and requested that the City convey to Cumberland Real Estate LLC, the portions of Park Alley being closed will be conveyed, in their entirety, to Cumberland Real Estate LLC.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND AS FOLLOWS:**

**SECTION 1:** The portions of Park Alley identified as Area #1 and Area #2 described in the metes and bounds description attached hereto as Exhibit A and shown on the plat attached hereto as Exhibit B shall be closed and conveyed from the City to Cumberland Gateway LLC as provided for hereinafter. This conveyance is subject to the easements, reservations and restrictions set forth in the Exhibit C attached hereto, which easements, reservations and restrictions shall be incorporated into the deed effecting the conveyance described in this paragraph.

**SECTION 2:** The said Mayor and City Council of Cumberland shall ascertain whether any and what amount in value of damage shall be caused by the aforesaid closure for which the owners or possessors of any property located along Park Alley, or portions thereof, should be compensated, and shall assess and levy generally on the property of the persons benefitted by the closure of the street the whole or any part of the expense which shall be incurred in closing the same.

**SECTION 3:** The City Administrator or his designee shall, within fifteen (15) days of the passage of this Ordinance, submit a report to the City Clerk setting forth his findings regarding what amount of damages, if any, shall have been caused by the aforesaid closure of the portion of Locust Alley described herein, and the names of the owners or possessors of such property along which said streets now pass, and the amount of damages for which they shall be compensated or benefits for which they shall be assessed, and whether said damages arising from the closure shall be assessed generally on the whole assessable property within the City of Cumberland or specially on the property of the person benefitted by the closure; and, in the event of any of said damages being assessed and levied in whole or in part on any property of the persons benefitted,

the names of the owners of the property specially benefitted, with a description of said property by reference to the Land Records of Allegany County, and the amount so levied and assessed. The Mayor and City Council shall consider the matter of the City Administrator's report and shall make determinations regarding the subject matter of the report at a meeting held no sooner than fifteen (15) days after the date of the passage of this Ordinance.

**SECTION 4:** Any person feeling aggrieved or injured by the decision of said Mayor and City Council of Cumberland regarding the subject matter of the aforereferenced report shall have the right of an appeal to the Circuit Court at a trial by jury, as provided in Section 128 of the Charter of the City of Cumberland (1991 Edition), upon filing a written notice of appeal with the City Clerk within thirty (30) days after the Mayor and City Council of Cumberland shall have made their return.

**SECTION 5:** The benefits assessed by said Mayor and City Council of Cumberland shall be liens upon the property of the persons benefitted to the extent of such assessment, and shall be payable within sixty (60) days after the date of the meeting at which the Mayor and City Council of Cumberland makes its determinations regarding the subject matter set forth in the City Administrator's report, and the collection of the same shall be enforced by *scire facias* in the same manner as paving liens are collected by the Mayor and City Council; and a written record of the said Mayor and City Council's determinations shall be filed for record and reported in the Mechanics' Lien Record in the Clerk's Office in the Circuit Court for Allegany County, and the assessment therein shall be liens upon the properties respectively assessed from the time of such recording, such recording to be effected no sooner than the expiration of the aforesaid sixty (60) day period.

**SECTION 6:** Upon the collection of all benefits assessed and the payment of the damages ascertained, or the waiver of this provision by the parties interested, if applicable, the said portions of Park Alley particularly described in Section 1 hereof shall be closed and the Mayor shall be empowered to execute the deeds effecting the conveyances which are described in Section 1 hereof.

**SECTION 7:** This Ordinance shall take effect from the date of its passage.

Passed the \_\_\_\_ day of \_\_\_\_\_, 2020.

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Raymond M. Morriss, Mayor

ATTEST:

---

Marjorie A. Woodring, City Clerk

## **EXHIBIT A**

### **LEGAL DESCRIPTION MAYOR AND CITY COUNCIL OF CUMBERLAND TO CUMBERLAND GATEWAY REAL ESTATE LLC**

Being two portions of Park Alley, a 15'-wide public right-of-way (15' RW) owned by and within the City of Cumberland, Maryland, as referenced and partially described in the following deeds:

- A deed from Ronald L. Davis and Barbara Jean Davis to Alter/Scott Acquisitions, LLC dated August 31, 2017 and recorded on September 12, 2017 among the Land Records of Allegheny County, Maryland in Deed Book 2325, Page 240; and
- A deed from Cumberland Economic Development Corporation to Cumberland Gateway Real Estate, LLC dated December 20, 2018, and recorded on December 21, 2018 among the aforesaid Land Records in Deed Book 2435, Page 262;

Said portions of Park Alley are bearings referenced to the Maryland Coordinate System North Zone (NAD83/11) based on a railroad spike found (PDG survey control point #1445) at the northwest corner of Spring Street (50' RW) and Locust Alley at the end of the "S 65° 43' 11" E 97.62'" line on a plat entitled "*FINAL PLAT OF SUBDIVISION CUMBERLAND SHOPPING CENTER*" recorded in the aforementioned Land Records as Plat 1438, said control point #1445 being coordinate North 725,976.0385 East 817,637.3732 as now surveyed by Piedmont Design Group, LLC (PDG).

#### **PARK ALLEY PARTIAL CLOSURE AREA #1**

Beginning at a point #329 (a to-be set #4 rebar and cap #21084) N 3° 18' 27" E 480.71' from the aforementioned survey control point #1145, said point #329 situated at the intersection of the northern RW line of Williams Street (50' RW) and the eastern RW of Park Alley (15' RW) at the southwest corner of and the beginning of the "South 82-2/3 East 50 feet" line of item 9, "TAX ACCOUNT NO. 22-008676 226 Williams Street, Cumberland, MD 21502 PLACE TWO" parcel described in the aforementioned Deed Book 2435 Page 262, thence with the northern RW line of Williams Street (50' RW) coincident with the southern RW line of Park Alley (15' RW):

1. **N 85° 33' 40" W 15.03' to point #320** at the northwest corner of Park Alley (15' RW) and Williams Street (50' RW) at the southeast corner of and beginning of the "North 8 degrees 20 minutes and East 71 feet" line of item 8, "TAX ACCOUNT NO.: 22-015354 218-220 Williams Street, Cumberland, MD 21502 PARCEL ONE" parcel described in the aforementioned Deed Book 2435 Page 262, thence leaving Williams Street (50' RW) and with the western line of Park Alley (15' RW):
2. **N 8° 10' 31" E 129.99' to point #319** at the northwest corner of Park Alley (15' RW) and Cecelia Street (50' RW) at the northeast corner of and the end

of the "South 79- $\frac{1}{4}$  degrees East 40 feet" line of item 24, "TAX ACCOUNT NO.: 22-011715 207 Cecelia Street Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2435 Page 262; thence with the southern line of Cecelia Street (50' RW) and crossing Park Alley (15' RW):

3. **S 81° 49' 29" E 12.61' to point #400** (a to-be set # rebar and cap #21084) at an angle point in the southern RW line of Cecelia Street (50' RW), thence continuing with the southern RW line of Cecelia Street (50' RW):
4. **N 73° 33' 00" E 2.63' to point #322** (a to-be set # rebar and cap #21084) at the northeast corner of Park Alley (15' RW) and Cecelia Street (50' RW) at the northwest corner of and the beginning of the "North 75- $\frac{1}{2}$  degrees East 30 feet" line of item 24, "TAX ACCOUNT NO.: 22-011715 207 Cecelia Street Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2325 Page 240, thence leaving Cecelia Street (50' RW) and with the eastern line of Park Alley (15' RW):
5. **S 8° 10' 31" E 130.11' to the point of beginning.**

Containing 1,944 square feet of land, more or less, subject to all easements or rights-of-way.

**PARK ALLEY**  
**PARTIAL CLOSURE AREA #2**

Beginning at a point #313 (a to-be set #4 rebar and cap #21084) N 4° 39' 38" E 665.34' from the aforementioned survey control point #1145, said point #313 situated at the northern RW line of Cecelia Street (50' RW) and the eastern RW line of Park Alley (15' RW) at the southwest corner of and the beginning of the "North 75.5 degrees East 46.25 feet" line of item 25, "TAX ACCOUNT NO. 22-002457 210 Cecelia Street, Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2435 Page 262, thence with the northern RW line of Cecelia Street (50' RW) coincident with the southern RW line of Park Alley (15' RW):

1. **S 73° 48' 04" W 14.50' to point #401** (a to-be set #4 rebar and cap #21084) on the northern RW line of Cecelia Street (50' RW) at an angle point in the northern RW line of Cecelia Street (50' RW) and the southern line of Park Alley (15' RW); thence continuing with the northern RW line of Cecelia Street (50' RW) coincident with the southern RW line of Park Alley (15' RW):
2. **N 81° 49' 29" W 1.80' to point #304** at the southwest corner of Park Alley (15' RW) and Cecelia Street (50' RW) at the southeast corner of and the end of the "South 10 $\frac{3}{4}$  degrees West 30 feet" line of item 15, "TAX ACCOUNT NO.: 22-0013254 416 Park Street Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2435 Page 262; thence leaving Cecelia Street (50' RW) and continuing with the western RW line of Park Alley (15' RW):
3. **N 8° 10' 31" E 90.00' to a point** on the western RW line of Park Alley (15' RW) at the northeast corner of and the end of the "South 79.25 degrees East 100 feet" line of item 14, "TAX ACCOUNT NO.: 22-013246 412 Park Street



Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2435 Page 262; thence crossing Park Alley (15' RW):

4. **S 81° 49' 29" E 15.00' to a point** on the eastern side of Park Alley (15' RW) on the "*South 10.25 degrees East 110 feet*" line of item 25, "TAX ACCOUNT NO. 22-002457 210 Cecelia Street, Cumberland, MD 21502" parcel described in the aforementioned Deed Book 2435 Page 262; thence with the eastern line of Park Alley (15' RW) and the "*South 10.25 degrees East 110 feet*" line as now surveyed:
5. **S 8° 10' 31" E 84.02'** to the point of beginning.

**Containing 1,311 square feet of land, more or less, subject to all easements or rights-of-way.**

**EXHIBIT C**  
**EASEMENTS, RESERVATIONS & RESTRICTIONS**

**SUBJECT, HOWEVER,** to an easement in favor of the City and public and private utilities, including, but not limited to, gas, electric and telephone service providers, for the full length and width of the right-of-way being closed for any existing utility lines, for stormwater and surface drainage and for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of any needed utility lines and stormwater management and sediment and erosion control devices and improvements.

**FURTHERMORE,** it is a condition of the conveyance effected by this deed that the Grantee, its successors, and assigns, or other(s) to whom this and the other portions of this right-of-way being closed shall be conveyed shall be allowed to use the surface of the land hereby conveyed; however, it shall not be permitted to place or erect structures or enclosures thereon without the written consent of the City, which consent may be granted or denied for any reason or no reason at all. The Grantee's use of the property conveyed by this deed shall not interfere with the ingress, egress or other actions of the City and public and private utilities, as necessary for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of the aforesaid utilities and appurtenances and improvements related thereto. Furthermore, no such structures or enclosures shall be located or constructed upon the land conveyed by this deed until plans therefore have been submitted to and approved by the City's Engineering Division, and no work in the construction of such structures or enclosures or in the use of the surface shall injure or disturb the aforesaid utilities and improvements related thereto or in any way interfere with or adversely impact their operation or maintenance.

**FURTHERMORE,** the Grantee shall not be permitted to grade the property conveyed under the terms of this deed nor shall it be permitted to alter the surface of the land hereby conveyed, aside from filling potholes, except upon the written consent of the City, said consent not to be unreasonably withheld.

**FURTHERMORE,** in the event the Grantee alters the surface of the land hereby conveyed or the subsurface thereof and said alterations result in the need to relocate

public or private utilities' lines and/or other appurtenances and improvements related thereto, the Grantee shall be liable for all costs associated with the relocation.

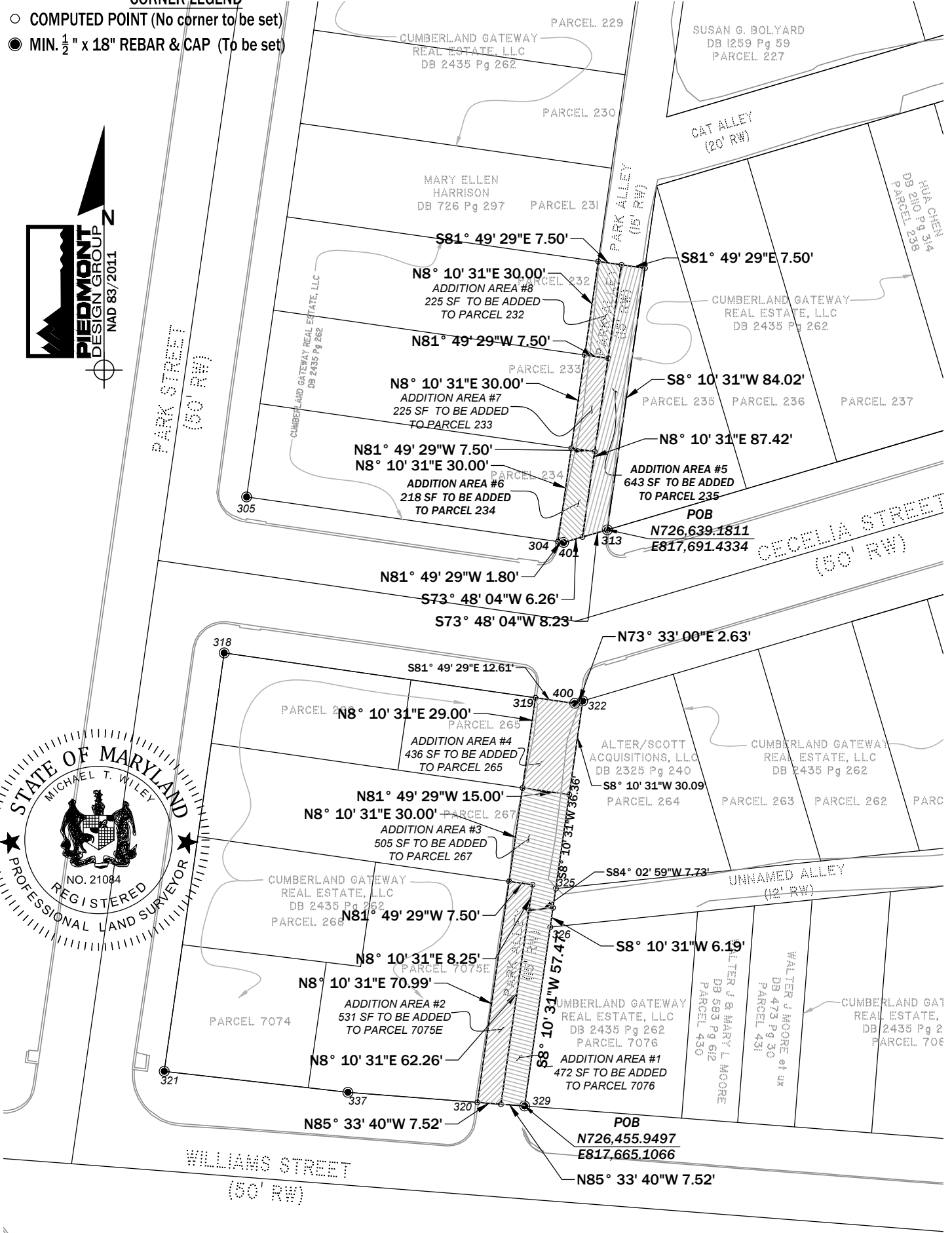
**FURTHERMORE**, the City, and public and private utilities, shall also have the right to enter upon the property hereby conveyed from time to time to remove, where necessary, such trees and other growths as may be required for the installation, inspection, operation, maintenance, repair, replacement and/or relocation of the aforesaid utility lines and stormwater management and sediment and erosion control devices and improvements related to the foregoing.

**IT IS UNDERSTOOD AND AGREED**, that the foregoing easements, covenants and restrictions shall be deemed to touch and concern the land, shall run with the title to the land, shall inure to the benefit of the City and the other parties thereby benefited, and shall be binding upon the Grantee and all future owners or possessors of all or any of the land hereby conveyed as well as their personal representatives, heirs, successors and assigns, and any and all persons and entities claiming through them.

EXHIBIT B

CORNER LEGEND

- COMPUTED POINT (No corner to be set)
- MIN. 1/2" x 18" REBAR & CAP (To be set)



SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THAT THE EXHIBIT SHOWN HEREON IS CORRECT, AND THAT THE LICENSEE BELOW PERSONALLY PREPARED THE METES AND BOUNDS DESCRIPTION OR WAS IN RESPONSIBLE CHARGE OVER ITS PREPARATION AND THE SURVEYING WORK REFLECTED IN IT, AND THE FOREGOING IS IN COMPLIANCE WITH REQUIREMENTS SET FORTH IN THE CODE OF MARYLAND REGULATIONS, TITLE 09, SECTION 09.13.06.12.

*Michael T. Wiley*  
MICHAEL T. WILEY, PE, PROF. LS  
MARYLAND PROFESSIONAL LAND SURVEYOR NO. 21084, EXP. 02/13/2021  
FOR PIEDMONT DESIGN GROUP, LLC.  
MARYLAND CORPORATE LAND SURVEYORS LICENSE NO. 21315, EXP. 09/07/2020.

05/12/2020  
DATE



5283 Corporate Drive, Suite 300  
Frederick, MD 21703  
(301) 695-6614

PLANS AND DETAILS ARE EXCLUSIVE  
PROPERTY OF PIEDMONT DESIGN  
GROUP, LLC. UNAUTHORIZED USE OF  
THESE PLANS IS STRICTLY  
PROHIBITED. © COPYRIGHT 2020

OWNER

CITY OF CUMBERLAND, MARYLAND  
57 N. LIBERTY STREET  
CUMBERLAND, MARYLAND 21502

EXHIBIT 'A'

PUBLIC RIGHT OF WAY CLOSURE PLAT  
FOR A PORTION OF PARK ALLEY  
BETWEEN WILLIAM STREET AND CECELIA STREET  
AND  
CECELIA STREET AND CAT ALLEY  
CUMBERLAND, MARYLAND

FEBRUARY 2020  
REVISED MAY 2020

1"=40'

SHEET 1 OF 1



**File Attachments for Item:**

Ordinance No. 3866 (*1st reading*) - providing for the City Tax Levy for FY21. Real Estate tax rate to remain at \$1.0595 per \$100 of assessed value. Personal Property tax rate to remain at \$2.648 per \$100 of assessed value.

ORDINANCE NO. \_\_\_\_\_

An Ordinance of the Mayor and City Council of Cumberland, Maryland, entitled, "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND PROVIDING FOR THE CITY TAX LEVY FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2021."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the levy for the Fiscal Year 2021 for the City of Cumberland shall be as follows:

<b>Property Taxes</b>	<b>Net Assessable Base</b>	<b>Tax Rate Per \$100</b>	<b>Tax Levy</b>
Real Estate	\$ 902,502,015	1.0595	\$ 9,562,009
Personal Property			
Individual	1,435,045		
Corporation	92,722,054		
	94,157,100	2.648	2,493,280
Penalties and Interest			520,000
Tax Credits			(252,000)
<b>Total Tax Levy</b>			<b>\$ 12,323,289</b>
<b>Other Revenues</b>			
Other Taxes	377,991		
Licenses & Permits	122,900		
Intergovernmental	3,089,824		
Charges for Services	1,569,450		
Fines, Forfeitures & Interest	59,200		
Miscellaneous	982,000		
<b>Total Other Revenue</b>			<b>6,201,365</b>
<b>Total Revenue</b>			<b>\$ 18,524,654</b>
<b>Other Financing Sources</b>			
Transfers-in			\$ 2,651,374
Capital Financing			2,240,474
(Increase) Decrease Restricted Fund Balance			(328,067)
<b>Total Other Financing Sources</b>			<b>\$ 4,563,781</b>
<b>Total Revenue and Other financing Sources</b>			<b>\$ 23,088,435</b>

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3867 (*1st reading*) - providing for the annual appropriation for the General Fund for FY21



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED, "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND PROVIDING FOR THE ANNUAL APPROPRIATION FOR THE GENERAL FUND FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2021."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the following sums of money be and they are hereby appropriated for the respective purposes of the City of Cumberland for the Fiscal Year beginning July 1, 2020, and ending June 30, 2021, to-wit:

General Government	\$ 1,786,435
Public Safety	11,684,675
Public Works	2,740,055
Recreation	708,834
Community Development	1,359,178
Debt Service	3,097,380
Transfer Out	1,710,223
<b>Total General Fund Appropriation</b>	<b>\$ 23,086,780</b>

SECTION 2: AND BE IT FURTHER ORDAINED, that the appropriations made herein are continuing in nature and shall not lapse at the end of the fiscal year (June 30, 2020) if legally encumbered but shall continue in full force and effect until the encumbrance has been completed or until modified by the Mayor and City Council.

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

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3868 (*1st reading*) - providing for the annual appropriation for the Water Fund for FY21

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED, "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND TO PROVIDE FOR AN APPROPRIATION FOR THE WATER FUND FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2021."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the following operating budget is hereby appropriated for the respective departments and purposes of the City of Cumberland Water Fund for the Fiscal Year beginning July 1, 2020, and ending June 30, 2021, to-wit:

Water Administration	\$ 1,289,226
Water Distribution	3,028,564
Water Filtration	2,143,070
Interest Expense	444,284
Principal Payments	1,145,124
Capital Expenditure	4,598,900
<b>Total</b>	<b>\$ 12,649,168</b>

SECTION 2: AND BE IT FURTHER ORDAINED, that there shall be levied and collected Service Charges in accordance with rates set forth in Section 24-86 of the Code of the City of Cumberland, and as the same may be from time to time amended, to produce sufficient revenue to enable the City of Cumberland to defray the cost of operating, maintaining, repairing and otherwise improving the Water System, and pay the maturing principal and interest on the bonded debt for the Fiscal Year ending June 30, 2021.

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

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3869 (*1st reading*) - providing for the yearly appropriation for the Sewer Fund for FY21

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MD, ENTITLED, "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND TO PROVIDE FOR AN APPROPRIATION FOR THE SEWER FUND FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2021."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the following sums of money be and are hereby appropriated for the respective departments and purposes of the City of Cumberland Sewer Fund for the Fiscal Year beginning July 1, 2020, and ending June 30, 2021, to-wit:

Wastewater Treatment Plant	\$ 6,600,195
Sanitary & Storm Sewer	1,778,095
Flood Control	575,654
Interest Expense	183,960
Principal Payments	1,022,833
Capital Expenditures	8,216,251
<b>Total</b>	<b>\$ 18,376,988</b>

SECTION 2: AND BE IT FURTHER ORDAINED, that there shall be levied and collected Service Charges in accordance with rates set forth in Section 27-9 of the code of the City of Cumberland to defray the cost of operating, maintaining, and repairing and otherwise improving the Sanitary and Storm Sewer system, and pay the maturing principal and interest on the bonded debt for the Fiscal Year ending June 30, 2021.

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

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3870 (*1st reading*) - providing for the annual appropriations for the Special Purpose Funds for FY21

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED, "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND TO PROVIDE APPROPRIATIONS FOR VARIOUS SPECIAL PURPOSE FUNDS FOR THE FISCAL YEAR BEGINNING JULY 1, 2020, AND ENDING JUNE 30, 2021."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, that the following sums of money be and are hereby appropriated for the respective funds and purposes of the City of Cumberland for the Fiscal Year beginning July 1, 2020, and ending June 30, 2021, to-wit:

Housing Assistance	\$ 2,192,573
Downtown Development Commission	323,968
Community Development Block Grant	882,302
Police Grants	500,049
Community Legacy	320,000
Special Projects	1,213,140
Capital Projects	4,848,507
Street Improvements	250,000
Municipal Parking Authority	505,128
Trash Removal	1,809,381
<b>Total</b>	<b>\$ 12,845,048</b>

SECTION 2: AND BE IT FURTHER ORDAINED, that the appropriations made herein are continuing in nature and shall not lapse at the end of the Fiscal Year (June 30, 2021) but shall continue in full force and effect until the project for which the appropriation has been made is completed or until modified by the Mayor and City Council.

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

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3871 (*1st reading*) - to provide for an increase in water rates effective July 1, 2020



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED “AN ORDINANCE TO REPEAL AND REENACT, WITH AMENDMENTS, SECTION 24-86 OF THE CODE OF THE CITY OF CUMBERLAND (1991 EDITION), PROVIDING FOR A SCHEDULE OF WATER RATES.”

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, That Section 24-86 of the Code of the City of Cumberland (1991 Edition) be and hereby repealed and reenacted, with amendments, to read as follows:

Section 24-86 Schedule

Effective July 1, 2020, the rates and charges for the use of water supplied by the Water Department shall be as follows, and no abatement or release therefrom is permitted:

(a) EQUIVALENT DWELLING UNIT (EDU). The minimum meter charges shall be determined by the Equivalent Dwelling Unit (EDU), which shall be determined by the size of the meter servicing the customer. The following table sets forth the EDU multiplier for each meter size:

Meter size (inches)	EDU
$\frac{3}{4}$ and below	1
1	2.5
1-1/2	5
2	8
3	16
4	25
6	50
8	80

(b) MINIMUM METER CHARGE FOR INSIDE CITY. The minimum charge for residential and industrial meter customers within the City shall be Five Dollars and Thirteen Cents (\$ 5.13) per month per EDU, for which sum, water up to and including one hundred cubic feet may be used. If the quantity of water used exceeds one hundred cubic feet in any month, such excess shall be charged for according to the schedule of rates set forth in subsection (f) of this section.

(c) MINIMUM METER CHARGE FOR OUTSIDE CITY. The minimum charge for residential and industrial meter customers outside the City shall be Seven Dollars and Seventy-One Cents (\$ 7.71) per month per EDU for which sum, water up to and including one hundred cubic feet may be used. If the quantity of water used exceeds one hundred cubic feet in any quarter, such excess shall be charged for in accordance with the schedule of rates as set forth in subsection (f) of this section.

(d) **MINIMUM METER CHARGE FOR WATER COMPANIES.** The minimum charge for water companies shall be Thirty-Five Dollars and Thirty Cents (\$ 35.30) per month per EDU for single Water Company accounts such water company has with the City for which sum water up to and including one hundred cubic feet may be used. If the quantity of water used exceeds the consumption in excess of capacity fee, in any month, such excess shall be charged for according to the schedule of rates set forth in subsection (f) of this section, as appropriate.

(e) **Flat rates.** There shall be no flat rate customers and the consumption of any customer found not to have a meter shall be estimated and such customer shall be charged double the rates set forth in subsection (b) of this section. All water customers outside the City shall be meter customers, and it shall be unlawful for the Water Department to furnish customers outside the City on a flat rate basis.

(f) **CONSUMPTION RATES.** The rates per month for residential and industrial water customers shall be as follows:

Class	Consumption	Rates within City Limits		Rates Outside City Limits	
		Current	New	Current	New
Tier 1	First 100 cubic feet, per EDU	\$ 4.8900	\$ 5.1300	\$ 7.3400	\$ 7.7100
Tier 2	Next 900 cubic feet, per cubic foot	\$ 0.0446	\$ 0.0468	\$ 0.0669	\$ 0.0702
Tier 3	Next 199,000 cubic feet, per cubic foot	\$ 0.0357	\$ 0.0375	\$ 0.0499	\$ 0.0524
Tier 4	Next 1,134,000 cubic feet, per cubic foot	\$ 0.0282	\$ 0.0296	\$ 0.0424	\$ 0.0445
Tier 5	Next 1,166,000 cubic feet, per cubic foot	\$ 0.0128	\$ 0.0134	\$ 0.0128	\$ 0.0134
Tier 6	Over 2,500,000 cubic feet, per cubic foot	\$ 0.0032	\$ 0.0034	\$ 0.0032	\$ 0.0034

(g) **WATER COMPANIES.** Companies purchasing in excess of 140,000 cubic feet of water from the City on a monthly basis and reselling that water shall pay the following monthly rates for each account such water company has with the City.

(1) **Water Company.** Any wholesale water company purchasing water from the City in excess of 140,000 cubic feet per month shall pay both a capacity fee plus a charge based upon consumption in excess of the capacity fee.

(2) **Capacity Fee.** Each water company shall pay a fixed capacity fee based on the number of EDU's calculated multiplied times the per month per EDU charge. The EDU amount is calculated annually determined by a percentage (70%) of its highest month's usage in the previous fiscal year calculated as follows:

$$\frac{\text{PEAK MONTHLY USE} \times 0.7}{33.42}$$

(3) Consumption in Excess of Capacity Fee. Consumption in excess of the capacity fee shall be billed at the rate for customers located outside the City.

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect July 1, 2020.

Passed this \_\_\_\_\_ day of June, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring  
City Clerk

**File Attachments for Item:**

. Ordinance No. 3872 (*1st, 2nd, and 3rd readings*) - to repeal and reenact with amendments Chapter 14 of the City Code, entitled "Nuisances"

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS CHAPTER 14 OF THE CITY CODE, ENTITLED "NUISANCES."

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that Chapter 14 (Sections 14-1 to 14-76) of the Code of the City of Cumberland (1991 Edition) be and hereby is repealed and reenacted, the said reenacted version being set forth in the Attachment A appended hereto and made a part hereof. [NOTE: A text-edited version showing the changes made to the former Chapter 14 is set forth in the Attachment B appended hereto and made a part hereof]

SECTION 2: AND BE IT FURTHER ORDAINED, that this Ordinance shall take effect from the date of its passage.

Passed this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Raymond M. Morriss, Mayor

ATTEST:

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

## **ATTACHMENT A**

### **ARTICLE I. - HEALTH AND SANITATION NUISANCES**

#### **Sec. 14-1 . - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bamboo* means any grasses in the genera bambusa, phyllostachys, and pseudosasa of the family poaceae (grass).

*Building* means a structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes.

*Dwelling* means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing shall not be regarded as a dwelling.

*Garbage* means all kitchen refuse of residences, hotels, restaurants or other places where food is prepared for human consumption, and all offal from fish, meat, and vegetable markets, and all vegetable or organic substances unfit for food that are subject to immediate decay.

*Health officer* means the state health officer or the officer who is responsible for the duties ascribed to the health officer as set forth herein and that individual's duly authorized representatives.

*Infestation* means the presence, within or around a dwelling, of any insects, rodents or other vermin and pests.

*Junk vehicles* means dismantled, partially dismantled, wrecked, junked, nonoperating, or discarded vehicles left on private property with or without the consent of the property owner.

*Lot* means a piece, parcel or plot of land.

*Nuisance* means any condition or use of premises or building exteriors which is dangerous to human life, health or safety; renders soil, water, food, or air impure or unwholesome: is generally detrimental to the health and safety of the citizens of the city; which is detrimental to the property of others or which causes or tends to cause diminution in the value of other property in the neighborhood in which such premises are located.

*Offal* means the refuse from slaughtered or salvageable dead animals, crustaceans, or any other animal form, including but not limited to, heads, feet, viscera, hair, blood, feathers, bowels, scales, or oils.

*Open fire* means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

*Ornamental grasses* means grasses that are not indigenous to the state that are intended to add beauty and diversity to landscaping and are not invasive. Ornamental grasses do not include turf grasses or weeds.

*Owner.* See section 1-2 of this Code for the definition.

*Premises* means a lot, plot or parcel of land, including the buildings or structures thereon.

*Rubbish* means all combustible and noncombustible waste materials, except garbage; including, but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

*Temporary housing* means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

*Unightly condition* means any of the following: (i) the accumulation of trash or junk; (ii) the excessive accumulation of items intended for use outdoors that are not screened from public view; (iii) furniture, equipment, appliances and other items intended for indoor use that are stored, kept, abandoned or junked outside, including, by way of example, on a porch, in a yard, or under a carport or other unenclosed structure.

#### **Sec.14-2. - Purpose of article.**

The purpose of this article is to (i) require that dwellings and property be kept clean and free of offal, rubbish, garbage and similar matter and that they be kept free from rodent infestation and junk vehicles, (ii) to provide for the control of trees, weeds and vegetative matter, and (iii) to authorize the director of community development the chief of police and or code compliance officers, to compel compliance with the provisions hereof and to correct such conditions at the expense of the occupants or owners of properties upon which violations occur.

#### **Sec. 14-3. - Certain conditions declared nuisances.**

Whatever is dangerous to human life, health or safety; whatever renders soil, water, food or air impure or unwholesome; whatever is detrimental to the health and safety of the citizens of the city are hereby declared to be nuisances and are prohibited. Property owners and occupants are responsible for keeping their properties free from nuisances. Acts of nuisance shall include but are not expressly restricted to:

- (1) Any watercourse, well, spring, open ditch, gutter, cesspool, drain, privy pit, pigpen, vacant lot or other place which is dangerous to human life, health or safety,
- (2) Any accumulation or deposit of any substance or any water in which infestations are present.
- (3) Any street or road, or any part thereof, or any water course, ditch, gutter, side channel, drain, dump, ash pit, sewer, privy, urinal or cesspool or similar feature which in the opinion of the health officer is, or could become, so foul as to be offensive or unhealthful.
- (4) Any house or dwelling, or the lot or yard thereof, which, in the opinion of the health officer, has been, or could be, rendered unsanitary or offensive by the keeping of animals.
- (5) Water or food which has been set outside for the purpose of providing sustenance for or attracting feral animals.
- (6) Depositing in any street, alley, lot or public place any manure, hay, straw, filth, offal or any offensive substance which, in the opinion of the health officer, is, or could become, detrimental to the public health and comfort.
- (7) Any dead animals, other than those lawfully slaughtered for food, remaining in any premises within the city for a period longer than is reasonably required to effect their removal.

#### **Sec. 14-4. - Dwellings, yards and lots to be kept clean.**

Every dwelling within the city and every part thereof shall be kept clean and free from any accumulation of dirt, animal excrement, filth, rubbish, garbage, junk vehicles or similar matter and shall be kept free from vermin and rodent infestation. All porches, yards, lawns, vacant lots and other exterior areas shall be similarly maintained and shall be kept free from unsightly conditions. Property owners and occupants shall be jointly and severally responsible for complying with the terms of this section.

#### **Sec.14-5. - Cutting of weeds.**

It shall be unlawful for any owner, occupant or person in control of any lot or land within the city to allow or maintain on any such lot or land any growth of grass (other than ornamental grasses), weeds or other rank vegetation to a height over twelve (12) inches. Every owner, occupant or person in control of any lot or land within the city shall cause such lot or land to be kept free from ragweed, wild mustard, wild lettuce, wild parsley, common thistle, milkweed, poison ivy, poison oak, and sumac by destroying such invasive weeds by spraying with a chemical compound or by cutting and removal. It shall likewise be unlawful for any property owner to permit grass, weeds or any vegetable matter, other than shade trees, to grow or remain growing upon the sidewalks, curbs, or gutters abutting his property.

#### **Sec.14-6. - Burning of trash or rubbish; accumulations of garbage.**

It shall be unlawful for any person to burn any trash or rubbish out of doors within the corporate limits of the city; provided, however, that a person may have an open fire for the burning of brush if that person obtains the required permits from the Maryland State Department of Health and the city fire department. It shall be unlawful for any person to allow any accumulation of, or to burn, any vegetable matter or animal matter upon any property within the city, and it shall be unlawful for any person to burn leaves upon any such property. The fire department, police department and code enforcement officers shall have the authority to order that a fire be extinguished at any time in the event they are of the opinion that the fire presents public safety concerns or neighbors make smoke complaints.

#### **Sec. 14-7. - Propagation of ornamental grasses and bamboo.**

The planting and/or propagation of ornamental grasses and/or bamboo must be undertaken responsibly by property owners to ensure that the plantings are regularly maintained in a controlled and attractive manner. Ornamental grasses and bamboo shall not be maintained at a plant density that promotes habitats for snakes, rats and other pests that create a nuisance for adjoining property owners. Such plantings must also be maintained within defined garden or landscaping areas and not allowed to spread onto adjoining properties. To ensure that these planting requirements are served all ornamental grass and bamboo plantings shall comply with the following requirements:

- (1) All planting areas for ornamental grasses and bamboo shall be defined and controlled through the installation of appropriate growth barriers for the varieties of plants used that will effectively prevent the unintentional spread of the plants beyond the defined boundaries of the planting area. Planting areas containing bamboo shall be completely enclosed through the installation of a root barrier comprised of galvanized metal sheathing or other barrier material impenetrable to bamboo roots to a depth below the ground sufficient to prevent the spread of bamboo beyond the enclosed planting area.
- (2) Planting areas containing ornamental grasses or bamboo shall not be located within the minimum front, rear, or side building setbacks for the applicable zoning district of the property as specified in section 25-133 of the city code. In zoning districts where no specific minimum front, side, or rear building setbacks are required, a minimum planting setback of ten (10) feet shall be observed along all property boundaries. These planting setbacks shall not be required of any indigenous (native) plants to the State of Maryland.
- (3) Where a property owner seeks to establish a planting area or garden within the minimum setback lines required in subsection (2) above, approval from the natural resource specialist or his designee must be obtained prior to planting. In order to obtain approval for such plantings, the applicant must submit a sketch plan of the property, drawn to scale, noting the locations of all improvements on the property, the boundaries of the planting area, the species of plants that will be planted within the planting area, and the location of all adjoining property lines relative to the planting area. The applicant shall also specify the intended plant density that the owner



seeks to achieve at maturity and the specifications of all barriers that will be employed along the boundaries of the planting area to contain and prevent the future spreading of the plantings. The natural resources specialist or his designee may require additional measures to be employed as may be necessary to ensure containment of the plantings and may impose a limit on plant density within the planting area to ensure that the plants can be maintained in a healthy and attractive state that will not be conducive to pest habitats.

- (4) The owner of any property containing ornamental grasses and bamboo shall be solely and directly responsible for preventing the spread of such plants beyond the defined planting area(s). Where such plants spread across a property line, the owner of said property from which the plants originated shall be financially and materially liable for removing and eliminating the invading bamboo from all adjoining premises as well as for mitigating or repairing any physical damage caused to improvements on adjoining properties or rights-of-way by invasive plant growth.

#### **Sec. 14-8. - Removal or trimming of trees, vegetation, etc.**

- (a) It shall be unlawful for any person to allow any trees, vegetation, poles, wires, signs or structures which may be located on such person's property to obstruct the view of the public using the streets, alleys, railroad crossings and highways of the city.
- (b) All trees growing over the sidewalks of the city shall be trimmed and kept trimmed by the owner thereof so that there shall not be less than ten (10) feet in height of clear space above the pavement. All grass and weeds growing in such sidewalks in front of any premises shall be removed by the owner, agent or occupant of such premises.
- (c) It shall be unlawful for any person to allow or permit the limbs or foliage of any tree on such person's property to extend over any street or alley at a height of less than fifteen (15) feet or to block the view of street signs, traffic lights and other traffic control devices.
- (d) It shall be the duty and obligation of the owner of the property abutting a sidewalk, alley or street to maintain all vegetation located on the property side of the physical boundary of the right-of-way.
- (e) The city engineer, city forester or code enforcement officer or their authorized representatives, either on their own accord or upon a reasonable complaint made, shall make an inspection of any trees, vegetation, poles, wires, signs or structures located either in any public place, street, highway or alley or in or upon any privately-owned lot within the city, and where they find that any trees, vegetation, poles, wires, signs or structures dangerous to life or property, they shall give a notice thereof to the owner, stating the condition of such trees, vegetation, poles, wires, signs or structures and requiring the same to be removed or trimmed by the deadline stated in the notice, which shall be no less than fifteen (15) days from the date of the notice. No person shall fail to comply with such notice within the time required.
- (f) In addition to the other remedies provided for in this article or elsewhere in this Code, if the owner of the property shall fail or refuse to comply with the terms of the notice set forth in subsection (e), the city may enter upon the property and abate the condition which is the subject of the notice in accordance with and subject to the terms section 14-9.
- (g) "Roadside trees," i.e. plants with woody stems or trunks that grow, all or in part, within the right-of-way of a public road, are subject to Sections 5-401 to 5-411 of the Natural Resources Article of the Annotated Code of Maryland, as amended from time to time, and the regulations promulgated pursuant thereto. To the extent the terms of this section of the city code conflict with the aforesaid state law, state law shall control.

#### **Sec. 14-9. - Abatement by city generally.**

The city administrator, code enforcement officers and, as applicable, city police officers and fire department shall have the authority to require the owner or occupant of any premises or property to cause nuisances to be removed or abated, The city may remove or abate nuisances when owners and/or occupants fail to do so. Junk vehicles may be impounded by the police department and disposed of in accordance with section 25-209 of the Transportation Article of the Annotated Code of Maryland, as the same may be amended from time to time. The costs of the work performed, including labor and materials and the charges of third-party contractors in abating and removing nuisances and as an incident thereto shall be charged against the owner and occupant of the premises.

#### **Sec. 14-10. - Municipal infraction; penalty; removal of nuisances.**

- (a) The violation of any of the provisions of this article is declared to be a municipal infraction punishable by a fine of up to three hundred dollars (\$300.00) if said violation is a first offense and a fine of up to five hundred dollars (\$500.00) if said violation is a repeat offense. Without regard to whether the violation is a first offense, in the event the fine is not paid within the period set forth in the citation, and no notice of intent to stand trial for said offense is filed, the city may double the fine not to exceed a total amount of up to one thousand dollars (\$1,000.0) pursuant to the provisions of section 6-110 of the Local Government Article of the Annotated Code of Maryland. Each day a violation continues shall constitute a separate offense.
- (b) The application of the above penalty shall be in addition to the abatement procedures set forth in section 14-9, and the exercise of one remedy shall not preclude the city from pursuing additional remedies.

#### **Reserve Sections 14-11 to 14-29**

### **ARTICLE II. - NOISE NUISANCES**

#### **Sec.14-30. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Law enforcement officer* means any sworn police officer of the city, the sheriff and any deputy sheriff of the county, or a sworn member of the state police.

*Person* means the tenant, owner or occupant, including any guest or invitee, in, on or of any property.

*Property* means any tract, lot or parcel of land and any dwelling or other structure erected or located thereon.

*Residential area* means any neighborhood or area within the corporate limits of the city which lies within a suburban residential zone (R-S), a low density urban residential zone (R-L), a medium density urban residential zone (R-M), a high density residential-office zone (R-O), or a planned unit development zone (R-PUD), as the zones are set forth in Ordinance No. 2970, as amended.

*Sound* means a vibration of sufficient intensity to cause another person to be aware of such vibration by the sense of hearing.

**Sec. 14-31. - Findings; declaration of nuisance.**

The activities proscribed under this article are deemed to be contrary to the health, safety and well-being of the residents of the city. All such activities are declared nuisances which are to be controlled and abated pursuant to this article.

**Sec.14-32. - Prohibited noises.**

- (a) *Generally.* It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud or raucous, disturbing, unusual or unnecessary sound which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. For the purpose of this article, sound shall include vibrations caused by human, animal or mechanical means. A person shall not be in violation of this article unless any such sound is perceived on another property, it being the intent of this article solely to prohibit sounds from carrying from one property to adjacent or nearby properties.
- (b) *Residential areas.* Within any area abutting a property used for residential purposes unless the area is used for large-scale commercial or industrial uses, the following activities are prohibited if they produce audible sound beyond the property line of the property on which they are conducted or from the public right-of-way:
  - (1) The operation, between 10:00 p.m. and 7:00 a.m., Monday through Friday, and 10:00 p.m. and 8:00 a.m., Saturday and Sunday, of power tools or equipment.
  - (2) The operation, between 10:00 p.m. and 8:00 a.m., of any device for killing, trapping, attracting or repelling insects or other pests.
  - (3) The sounding, between 10:00 p.m. and 8:00 a.m., of any bell, chime, siren, whistle or similar device except:
    - a. To alert persons to the existence of any emergency, danger or attempted crime.
    - b. The use for noncommercial purposes of one (1) or more bells or chimes which do not exceed ninety (90) seconds in duration in an hour.
    - c. Whistles used in manufacturing purposes to alert workers of shift changes or other conditions within the work site.
  - (4) The operation or playing between 10:00 p.m. and 8:00 a.m. of any radio, television, drum device for the playing of recorded music or musical instrument.
  - (5) Construction, repair, remodeling, demolition, drilling or excavation work between 9:00 p.m. and 8:00 a.m.
  - (6) The operation or use between 10:00 p.m. and 8:00 a.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds.
  - (7) The creation of a loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates or other containers.
  - (8) Yelling, shouting, hooting, whistling and singing between the hours of 9:00 p.m. and 8:00 a.m.
  - (9) The keeping of any animal or bird which disturbs the comfort or repose of any persons in the vicinity by causing frequent or long continued noise.
- (c) *Barking or howling animals.* It shall be unlawful for any person to allow or permit any dog or other animal to bark, howl, or in any other manner disturb the quiet of any person.

- (d) *Exceptions.* The provisions of this section shall not apply to the following:
- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger.
  - (2) Sound made to alert persons to the existence of an emergency, danger or attempted crime.
  - (3) Activities or operations of governmental units or agencies.

**Sec. 14-33. - Responsibility for violation.**

Whenever noise or sound is made, created or continued in violation of the provisions of this article and the property upon which or from which the sound is emanating has two (2) or more occupants, and it cannot be determined which occupant is the violator, the owner of the property, if present, shall be presumed to be responsible for the violation. In the absence of the owner of the property, the tenant, subtenant, licensee, invitee or guest then in control of the property shall be presumed to be responsible for the violation. If it is impossible to determine the person then in control of the property, it shall be presumed that the owner of the property is responsible and, if not present, all persons then on or in the property shall be ordered to disperse and leave the property and a failure to do so by any person shall itself be a municipal infraction punishable under the provisions of section 14-73.

**Sec.14.34. - Enforcement.**

- (a) When a violation of this article occurs, a law enforcement officer shall undertake to notify the persons present in or on the property from which the sound or activity is emanating that they are in violation and notify them to cease and desist whatever is causing the violation. At this time the law enforcement officer shall also ascertain, if reasonably possible, the owner or tenant of the property in question. Notice under this section may be given orally by the officer to the owner or by posting a written notice on the premises where such violation is occurring. Any written notice posted shall contain a specific description as to the nature of the violation.
- (b) The continuation of such violation or any subsequent violation of the same proscription following receipt of the notice to cease and desist shall constitute a municipal infraction punishable as set forth in this article.
- (c) Nothing contained in this section is intended to nor shall this section be construed to preclude the right of any person to file in accordance with the laws of the state an application for a statement of charges for a violation of any provision of the Annotated Code of Maryland or other section of the city code where such violation is contrary to other applicable laws.

**Sec. 14-35. - Penalty.**

The violation of any of the provisions of this article is declared to be a municipal infraction punishable by a fine of up to three hundred dollars (\$300.00) if said violation is a first offense and a fine of up to five hundred dollars (\$500.00) if said violation is a repeat offense. Without regard to whether the violation is a first offense, in the event the fine is not paid within the period set forth in the citation, and no notice of intent to stand trial for said offense is filed, the city may double the fine not to exceed a total amount of up to one thousand dollars (\$1,000.0) pursuant to the provisions of section 6-110 of the Local Government Article of the Annotated Code of Maryland. Each day a violation continues shall constitute a separate offense.

Article of the Annotated Code of Maryland. Each day a violation continues shall constitute a separate offense.

## **ATTACHMENT B**

### **Chapter 14 – NUISANCES**

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#### **ARTICLE I. - IN GENERAL**

##### **Sec. 14-814-1. - Removal or trimming of trees, vegetation, etc.**

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- (a) It shall be unlawful for any person to allow any trees, vegetation, poles, wires, signs or structures which may be located on such person's property to obstruct the view of the public using the streets, alleys, railroad crossings and highways of the city.
- (b) All trees growing over the sidewalks of the city shall be trimmed and kept trimmed by the owner thereof so that there shall not be less than ten (10) feet in height of clear space above the pavement. All grass and weeds growing in such sidewalks in front of any premises shall be removed by the owner, agent or occupant of such premises.
- (c) It shall be unlawful for any person to allow or permit the limbs or foliage of any tree on such person's property to extend over any street or alley at a height of less than fifteen (15) feet or to block the view of street signs, traffic lights and other traffic control devices.
- (d) It shall be the duty and obligation of the owner of the property abutting a sidewalk, alley or street to maintain all vegetation located on the property side of the physical boundary of the right-of-way.
- (e) The city engineer, city forester or code enforcement officer or their authorized representatives, either on his own motion their own accord or upon a reasonable complaint received by his office made, shall make an inspection of any trees, vegetation, poles, wires, signs or structures located either in any public place, street, highway or alley or in or upon any privately-owned lot within the city, and where he shall find they find that any trees, vegetation, poles, wires, signs or structures dangerous to life or property, they he shall give a notice thereof to the owner, stating the condition of such trees, vegetation, poles, wires, signs or structures and requiring the same to be removed or trimmed by the deadline stated in the notice, which shall be no less than fifteen (15) days from the date of the notice. No person shall fail to comply with such notice within the time required.
- (f) In addition to the other remedies provided for in this article or elsewhere in this Code, if the owner of the property shall fail or refuse to comply with the terms of the notice set forth in subsection (e), the city may enter upon the property and abate the condition which is the subject of the notice in accordance with and subject to the terms section 14-4314-9.
- (g) "Roadside trees," i.e. plants with woody stems or trunks that grow, all or in part, within the right-of-way of a public road, are subject to Sections 5-401 to 5-411 of the Natural Resources Article of the Annotated Code of Maryland, as amended from time to time, and the regulations promulgated pursuant thereto. To the extent the terms of this section of the cCity cCode conflict with the aforesaid state law, state law shall control.

Secs. 14-2 – 14-30. – Reserved.

## ARTICLE II. - HEALTH AND SANITATION NUISANCES

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### DIVISION 1. - GENERALLY

#### Sec. 14-114-31. - Definitions.

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The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Bamboo* means any grasses in the genera bBambusa, pPhyllostachys, and pPseudosasa of the family pPoaceae (grass).

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*Building* means a structure adapted to permanent or continuous occupancy or use for residential, public, institutional, business, industrial or storage purposes.

~~Chief of police means the Chief of the Cumberland Police Department, or his duly authorized agent.~~

~~City administrator means the City Administrator of the City of Cumberland, or his duly authorized agent.~~

~~Director of community development means the director of the department of community development, his/her duly authorized agent or any City of Cumberland employee who is authorized by the city administrator to perform certain of the duties of the director of community development.~~

*Dwelling* means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing shall not be regarded as a dwelling.

*Garbage* means all kitchen refuse of residences, hotels, restaurants or other places where food is prepared for human consumption, and all offal from fish, meat, and vegetable markets, and all vegetable or organic substances unfit for food that are subject to immediate decay.

*Health officer* means the ~~deputy~~ state health officer or the officer who is responsible for the duties ascribed to the health officer as set forth herein and ~~his~~ that individual's duly authorized representatives.

*Infestation* means the presence, within or around a dwelling, of any insects, rodents or other vermin and pests.

*Junk vehicles* means dismantled, partially dismantled, wrecked, junked, nonoperating, or discarded vehicles left on private property with or without the consent of the property owner.

*Lot* means a piece, parcel or plot of land.

*Nuisance* means any condition or use of premises or building exteriors which is dangerous to human life, health or safety; renders soil, water, food, or air impure or unwholesome: is generally detrimental to the health and safety of the citizens of the city; which is detrimental to the property of others or which causes or tends to cause diminution in the value of other property in the neighborhood in which such premises are located.

*Offal* means the refuse from slaughtered or salvageable dead animals, crustaceans, or any other animal form, including but not limited to, heads, feet, viscera, hair, blood, feathers, bowels, scales, or oils.

*Open fire* means a fire where any material is burned in the open or in a receptacle other than a furnace, incinerator or other equipment connected to a stack or chimney.

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*Ornamental grasses* means grasses that are not indigenous to the State of Maryland ~~state~~ that are intended to add beauty and diversity to landscaping and are not invasive. Ornamental grasses do not include turf grasses or weeds.

Owner. See section 1-2 of this Code for the definition.

Premises means a lot, plot or parcel of land, including the buildings or structures thereon.

Rubbish means all combustible and noncombustible waste materials, except garbage; including, but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than thirty (30) consecutive days.

Unightly condition means any of the following: (i) the accumulation of trash or junk; (ii) the excessive accumulation of items intended for use outdoors that are not screened from public view; (iii) furniture, equipment, appliances and other items intended for indoor use that are stored, kept, abandoned or junked outside, including, by way of example, on a porch, in a yard, or under a carport or other unenclosed structure.

**Sec. 14-214-32. - Purpose of article.**

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The purpose of this article is to (i) require that dwellings and property be kept clean and free of dirt, filth, rubbish, garbage and similar matter, and that they be kept free from rodent infestation and junk vehicles, (ii) and to provide for the control of trees, weeds and vegetative matter on vacant lots or other properties within the City of Cumberland, and (iii) to authorize the director of community development or, in the case of junk vehicles, the chief of police and or code compliance officers, to issue notices compelling compliance with the provisions hereof and to correct such conditions at the expense of the occupants or the owner or owners of properties upon which violations occur.

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**Sec. 14-3314-3. - Certain conditions declared nuisances.**

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Whatever is dangerous to human life, health or safety; whatever renders soil, water, food or air impure or unwholesome; whatever is detrimental to the health and safety of the citizens of the city are hereby declared to be nuisances and are prohibited. Property owners and occupants are responsible for keeping their properties free from nuisances. Acts of nuisance shall include but are not expressly restricted to:

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(8) (4) Any watercourse, well, spring, open ditch, gutter, cesspool, drain, privy pit, pigpen, vacant lot or other place which is dangerous to human life, health or safety,

(8) (9) or any Any accumulation or deposit of any substance, or any water in which mosquitoes or their larvae infestations are present.

(9) (10) Any street or road, or any part thereof, or any water course, ditch, gutter, side channel, drain, dump, ash pit, sewer, privy, urinal or cesspool or similar feature which in the opinion of the health officer is, or could become, so foul as to be offensive or unhealthful.

(10) (11) Any house or dwelling, or the lot or yard thereof, which, in the opinion of the health officer, has been, or could be, rendered unsanitary or offensive by the keeping of animals.

(14) (12) Water or food which has been set outside for the purpose of providing sustenance for or attracting feral animals.

(12) (13) Depositing in any street, alley, lot or public place any manure, hay, straw, filth, offal or any offensive substance which, in the opinion of the health officer, is, or could become, detrimental to the public health and comfort.

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(13)(14) — Any dead animals, other than those lawfully slaughtered for food, remaining in any premises within the city for a period longer than is reasonably required to effect their removal.

**Sec. 14-414-34. - Dwellings, yards and lots to be kept clean.**

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Every dwelling within the City of Cumberland and every part thereof shall be kept clean and free from any accumulation of dirt, animal excrement, filth, rubbish, garbage, junk vehicles or similar matter and shall be kept free from vermin and rodent infestation. All porches, yards, lawns, vacant lots and other exterior areas shall be similarly maintained and shall be kept free from unsightly conditions. Property owners and occupants shall be jointly and severally responsible for complying with the terms of this section.

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**Sec. 14-514-35. - Cutting of weeds.**

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It shall be unlawful for any owner, occupant or person in control of any lot or land within the city to allow or maintain on any such lot or land any growth of grass (other than ornamental grasses), weeds or other rank vegetation to a height over twelve (12) inches. Every owner, occupant or person in control of any lot or land within the city shall cause such lot or land to be kept free from ragweed, wild mustard, wild lettuce, wild parsley, common thistle, milkweed, poison ivy, poison oak, and sumac by destroying such invasive weeds by spraying with a chemical compound or by cutting and removal. It shall likewise be unlawful for any property owner to permit grass, weeds or any vegetable matter, other than shade trees, to grow or remain growing upon the sidewalks, curbs, or gutters abutting his property.

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(Ord. No. 3463, § 1, 9-23-03; Ord. No. 3720, § 1, 7-31-12)

**Sec. 14-614-36. - Burning of trash or rubbish; accumulations of garbage.**

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It shall be unlawful for any person to burn any trash or rubbish out of doors within the corporate limits of the City of Cumberland; provided, however, that a person ~~may~~ may have an open fire for the burning of brush ~~or leaves~~ if that person obtains the required permits from the Maryland State Department of Health and Mental Hygiene and the city fire department ~~Fire Department of the City of Cumberland~~. It shall be unlawful for any person to allow any accumulation of, or to burn, any vegetable matter or animal matter upon any property within the city, and it shall be unlawful for any person to burn leaves upon any such property. The fire department, police department and code enforcement officers shall have the authority to order that a fire be extinguished at any time in the event they are of the opinion that the fire presents public safety concerns or neighbors make smoke complaints.

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(Ord. No. 3463, § 1, 9-23-03)

**Sec. 14-714-37. - Propagation of ornamental grasses and bamboo.**

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The planting and/or propagation of ornamental grasses and/or bamboo must be undertaken responsibly by property owners to ensure that the plantings are regularly maintained in a controlled and attractive manner. Ornamental grasses and bamboo shall not be maintained at a plant density that promotes habitats for snakes, rats and other pests that create a nuisance for adjoining property owners. Such plantings must also be maintained within defined garden or landscaping areas and not allowed to

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spread onto adjoining properties. To ensure that these planting requirements are served all ornamental grass and bamboo plantings shall comply with the following requirements:

- (1) ~~—~~ All planting areas for ornamental grasses and bamboo shall be defined and controlled through the installation of appropriate growth barriers for the varieties of plants used that will effectively prevent the unintentional spread of the plants beyond the defined boundaries of the planting area. Planting areas containing bamboo shall be completely enclosed through the installation of a root barrier comprised of galvanized metal sheathing or other barrier material impenetrable to bamboo roots to a depth below the ground sufficient to prevent the spread of bamboo beyond the enclosed planting area.
- (2) ~~—~~ Planting areas containing ornamental grasses or bamboo shall not be located within the minimum front, rear, or side building setbacks for the applicable zoning district of the property as specified in section ~~6.03.01 of the city's zoning ordinance~~ 25-133 of the city code. In zoning districts where no specific minimum front, side, or rear building setbacks are required, a minimum planting setback of ten (10) feet shall be observed along all property boundaries. These planting setbacks shall not be required of any indigenous (native) plants to the State of Maryland.
- (3) ~~—~~ Where a property owner seeks to establish a planting area or garden within the minimum setback lines required in subsection (2) above, approval from the natural resource specialist or his designee must be obtained prior to planting. In order to obtain approval for such plantings, the applicant must submit a sketch plan of the property, drawn to scale, noting the locations of all improvements on the property, the boundaries of the planting area, the species of plants that will be planted within the planting area, and the location of all adjoining property lines relative to the planting area. The applicant shall also specify the intended plant density that the owner seeks to achieve at maturity and the specifications of all barriers that will be employed along the boundaries of the planting area to contain and prevent the future spreading of the plantings. The natural resources specialist or his designee may require additional measures to be employed as may be necessary to ensure containment of the plantings and may impose a limit on plant density within the planting area to ensure that the plants can be maintained in a healthy and attractive state that will not be conducive to pest habitats.
- (4) ~~—~~ The owner of any property containing ornamental grasses and bamboo shall be solely and directly responsible for preventing the spread of such plants beyond the defined planting area(s). Where such plants spread across a property line, the owner of said property from which the plants originated shall be financially and materially liable for removing and eliminating the invading bamboo from all adjoining premises as well as for mitigating or repairing any physical damage caused to improvements on adjoining properties or rights-of-way by invasive plant growth.

~~Secs. 14-38—14-40. Reserved.~~

## ~~DIVISION 2. ABATEMENT~~

~~Sec. 14-41. Notice to property owner.~~

- (a) ~~—Except as may be hereafter provided whenever the existence of any violation of any provision of this article, on or about any lots or parcels of real estate situated within the city, shall come to the knowledge of the director of community development or, in the case of junk vehicles, the chief of police, it shall be his duty to cause a written notice identifying such violation to be issued to the person owning and/or occupying the same. Such notice shall be addressed to such person requiring the abatement of such nuisance by grubbing and removing such weeds, brush, rubbish, junk vehicles or other objectionable unsightly or unsanitary matter of whatever nature, as the case may be, or by filing in, draining, leveling or otherwise regulating such lots or parcels of real estate so as to~~

prevent stagnant water standing therein, within the time specified in such notice. Such notice shall further state that, in default of the performance of the above condition, the city may, at once, cause the same to be done, and charge the cost and expense incurred in doing or having such work done, or improvements made, to the owner of such property and to collect same as provided in this article. The notice is effective if given by registered or certified mail, return receipt requested, personally delivered to the property owner, and/or by regular mail and posting such notice to the property.

(b) In the case of junk vehicles, the director of community development and the police department have the right to enter upon private property and inspect any unenclosed property where such junk vehicles are located. This inspection will include a pictorial record of the vehicle(s) and the right to require proof of registration, licensing, and operability of any such vehicle.

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#### Sec. 14-42. Right of appeal.

(a) Any property owner or person occupying such property shall have the right to contest the determination by the director of community development, and/or chief of police that a violation of this article exists by filing an appeal within five (5) days of the date of the notice provided by the director of community development and/or the chief of police. Said appeal shall be heard by the city administrator within a period of five (5) days from the date of appeal. The property owner or occupant, whichever is applicable, shall have the right to be represented by counsel at such hearing and, further, shall have the right to present evidence on his behalf and to cross-examine all witnesses produced by the director of community development and/or the chief of police. The city administrator shall have the right to inspect the property which is the subject of the appeal, and further shall have the right to consult with such experts as he deems appropriate to determine whether or not a violation of the provisions exists; provided, however, that any party to the appeal shall have the right to cross-examine any person consulted by the city administrator. A decision by the city administrator on the appeal shall be rendered within five (5) days of the date of the hearing. The same shall be in writing and delivered to all parties to the proceeding.

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(b) Any party to the proceeding aggrieved by the decision of the city administrator shall have the right of appeal on the record to the Circuit Court for Allegany County, provided, however, that the appeal shall not stay the effect of the decision of the city administrator and any order issued by him as part of his decision.

(Ord. No. 3463, § 1, 9-23-03)

#### Sec. 14-943. - Abatement by city generally.

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The city administrator, code enforcement officers and, as applicable, city police officers and fire department shall have the authority to require in the event of the failure, refusal or neglect of the owner or occupant of any premises or property to cause such nuisances to be removed or abated in the manner and within the time specified in the notice or as specified in the decision and order of the city administrator. The city may remove or abate nuisances when owners and/or occupants fail to do so. It shall be the duty of the city administrator to cause the weeds, brush, rubbish, junk vehicles or other unsanitary matter or condition constituting a nuisance, to be promptly and similarly abated. Junk vehicles may be impounded by the police department and disposed of in accordance with section 25-209 of the Transportation Article of the Annotated Code of Maryland, the Ann. Code of Md. Transportation Article, § 25-209, as the same may be from time to time amended from time to time. The city administrator shall cause to be compiled the The costs of such work done and improvements made the work performed, including labor and materials and the charges of third-party contractors in abating and removing

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~~nuisances and as an incident thereto such nuisance, and shall charge the same shall be charged against the owner and occupant of the premises. It is hereby provided that general overhead of administrative expense of inspection, locating the owner, issuing a notice and reinspection and ordering work done, together with all necessary incidents of same, shall require a charge of twenty-five dollars (\$25.00) for each lot, series of two (2) or more adjacent and contiguous lots, or tract or parcel of acreage, and such minimum charge is hereby established and declared to be an expense of such work and improvement. Notwithstanding, therefore, any tabulation of recorded cost, a minimum charge of twenty-five dollars (\$25.00) is hereby expressly stated to be a minimum charge only, and shall have no application when the tabulated cost of the work done shall exceed such minimum charge.~~

~~Sec. 14-44. Summary judgment.~~

~~In addition to the remedies provided by this article, and cumulative thereof, if it shall be brought to the attention of the city administrator, and it shall be determined by him after consultation with the health officer that any such nuisance, or nuisances, are likely to have an immediate adverse effect upon the public health, comfort or safety, then and in that event the city administrator may order such nuisance or nuisances summarily abated by the city in the manner provided in section 14-43 above.~~

~~Sec. 14-45. Mailing of notices and bills.~~

~~All notices to cut weeds or abate any nuisance under this article, and all statements evidencing costs to the city of cutting weeds or abatement of nuisances, upon failure, refusal or neglect of the owner to cut weeds or abate the nuisance after having been notified to do so shall be mailed to the person or entity listed as the owner of the property upon the tax records of the City of Cumberland, and shall be mailed to the address of the owner as of record on said tax records.~~

~~Sec. 14-46. Persons subject to provisions.~~

~~Whenever any person or persons shall be in actual or constructive possession, or have charge, care or control of any property within the City of Cumberland, as executor, administrator, trustee, guardian or agent, such person shall be deemed and taken to be the owner or owners of such property within the intent and meaning of this article and shall be bound to comply with the provisions of this article to the same extent as the owner, and notice to any such person given pursuant to this article shall be deemed and taken to be a good and sufficient notice as if such person or persons were actually the owner or owners of such property.~~

**Sec. 14-1047. - Municipal infraction; penalty; removal of nuisances.**

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- (a) ~~—The violation of any of the provisions of this article is declared to be a municipal infraction punishable by a fine of up to threetwo hundred dollars (\$300.00~~200.00~~) if said violation is a first offense and a fine of up to four-five hundred dollars (\$500.00~~400.00~~) if said violation is a repeat offense. Without regard to whether the violation is a first offense, in the event the that the assessed fine is not paid within the period set forth in the citation, and no notice of intent to stand trial for said offense is filed, the city may double the fine not to exceed a total amount of up to four hundredone thousand dollars (\$1,000.00~~400.00~~) pursuant to the provisions of section 6-110 of the Local Government Article of the Annotated Code of Maryland. Ann. Code of Md. art. 23A. Each day a violation continues shall constitute a separate offense.~~

(b) The application of the above penalty shall be in addition to the abatement procedures set forth in section 14-9a above, and the exercise of one remedy shall not preclude the city from pursuing additional remedies. ~~constitute an election but rather all remedies available may be pursued.~~

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Reserve Sections 14-12 to 14-29

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### ARTICLE III. - NOISE NUISANCES

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#### Footnotes:

~~—(3)—~~

~~Charter reference—~~ Authority to prohibit noise, § 72.

~~State Law reference—~~ Noise control, Ann. Code of Md. art. Environment, § 3-101 et seq.; local noise control ordinances authorized, Ann. Code of Md. art. Environment, § 3-105.

#### Sec. 14-30 ~~14-71~~. - Definitions.

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The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Law enforcement officer* means any sworn police officer of the city, the sheriff and any deputy sheriff of the county, or a sworn member of the state police.

*Person* means the tenant, owner or occupant, including any guest or invitee, in, on or of any property.

*Property* means any tract, lot or parcel of land and any dwelling or other structure erected or located thereon.

*Residential area* means any neighborhood or area within the corporate limits of the city which lies within a suburban residential zone (R-S), a low density urban residential zone (R-L), a medium density urban residential zone (R-M), a high density residential-office zone (R-O), or a planned unit development zone (R-PUD), as the zones are set forth in Ordinance No. 2970, as amended.

*Sound* means a vibration of sufficient intensity to cause another person to be aware of such vibration by the sense of hearing.

~~(Ord. No. 2990, § 14, 6-24-86)~~

~~Cross reference—~~ Definitions and rules of construction generally, § 1-2.

#### Sec. 14-31 ~~14-72~~. - Findings; declaration of nuisance.

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~~The mayor and city council hereby find and declare that the occurrence of these activities~~ The activities proscribed under this article are deemed to be contrary to the health, safety and well-being of

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the residents of the city. ~~All, and all~~ such activities are hereby declared ~~to be~~ nuisances which are to be specifically controlled and abated pursuant to this article.

~~(Ord. No. 2990, § 15, 6-24-86)~~

**~~Sec. 44-7314-35.~~ - Penalty.**

~~The violation of any of the provisions of this article is declared to be a municipal infraction punishable by a fine of up to three hundred dollars (\$300.00) if said violation is a first offense and a fine of up to five hundred dollars (\$500.00) if said violation is a repeat offense. Without regard to whether the violation is a first offense, in the event the fine is not paid within the period set forth in the citation, and no notice of intent to stand trial for said offense is filed, the city may double the fine not to exceed a total amount of up to one thousand dollars (\$1,000.00) pursuant to the provisions of section 6-110 of the Local Government Article of the Annotated Code of Maryland. Each day a violation continues shall constitute a separate offense. Violation of any provision of this article is declared to be a municipal infraction, punishable by a fine of two hundred dollars (\$200.00) if the violation is a first offense and a fine of four hundred dollars (\$400.00) if the violation is a repeat offense. If the assessed fine is not paid within the period set forth in the citation and no notice of intent to stand trial for the offense is filed, the city may double the fine, not to exceed a total amount of four hundred dollars (\$400.00), pursuant to provisions of Ann. Code of Md. art. 23A. Each day a violation continues shall constitute a separate offense.~~

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~~(Ord. No. 2990, § 18, 6-24-86)~~

~~Charter reference—Penalties for ordinance violations, § 78.~~

~~State Law reference—Penalties for ordinance violations, Ann. Code of Md. art. 23A, § 3.~~

**~~Sec. 14-3414-74.~~ - Enforcement.**

- (a) ~~—When a violation of this article occurs, a law enforcement officer shall undertake to notify the persons present in or on the property from which the sound or activity is emanating that they are in violation and notify them to cease and desist whatever is causing the violation. At this time the law enforcement officer shall also ascertain, if reasonably possible, the owner or tenant of the property in question. Notice under this section may be given orally by the officer to the owner or by posting a written notice on the premises where such violation is occurring. Any written notice posted shall contain a specific description as to the nature of the violation.~~
- (b) ~~—The continuation of such violation or any subsequent violation of the same proscription following receipt of the notice to cease and desist shall constitute a municipal infraction punishable as set forth in this article.~~
- (c) Nothing contained in this section is intended to nor shall this section be construed to preclude the right of any person to file in accordance with the laws of the state an application for a statement of charges for a violation of any provision of the Annotated Code of Maryland or other section of ~~the city code~~~~this Code~~ where such violation is contrary to other applicable laws.

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**Sec. 14-3314-75. - Responsibility for violation.**

Whenever noise or sound is made, created or continued in violation of the provisions of this article and the property upon which or from which the sound is emanating has two (2) or more occupants, and it cannot be determined which occupant is the violator, the owner of the property, if present, shall be presumed to be responsible for the violation; ~~in~~ in the absence of the owner of the property, the tenant, subtenant, licensee, invitee or guest then in control of the property shall be presumed to be responsible for the violation. If it is impossible to determine the person then in control of the property, it shall be presumed that the owner of the property is responsible and, if not present, all persons then on or in the property shall be ordered to disperse and leave the property and a failure to do so by any person shall itself be a municipal infraction punishable under the provisions of section 14-73.

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**Sec. 14-3214-76. - Prohibited noises.**

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- (a) Generally. It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any unreasonably loud or raucous, disturbing, unusual or unnecessary sound which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the city. For the purpose of this article, sound shall include vibrations caused by human, animal or mechanical means. A person shall not be in violation of this article unless any such sound is perceived on another property, it being the intent of this article solely to prohibit sounds from carrying from one property to adjacent or nearby properties.
- (b) Residential areas. Within any residential area abutting a property used for residential purposes unless the area is used for large-scale commercial or industrial uses, the following activities are prohibited if they produce audible sound beyond the property line of the property on which they are conducted or from the public right-of-way:
- (1) The operation, between 10:00 p.m. and 7:00 a.m., Monday through Friday, and 10:00 p.m. and 8:00 a.m., Saturday and Sunday, of power tools or equipment.
  - (2) The operation, between 10:00 p.m. and 8:00 a.m., of any device for killing, trapping, attracting or repelling insects or other pests.
  - (3) The sounding, between 10:00 p.m. and 8:00 a.m., of any bell, chime, siren, whistle or similar device except:
    - a. To alert persons to the existence of any emergency, danger or attempted crime.
    - b. The use for noncommercial purposes of one (1) or more bells or chimes which do not exceed ninety (90) seconds in duration in an hour.
    - c. Whistles used in manufacturing purposes to alert workers of shift changes or other conditions within the work site.
  - (4) The operation or playing between 10:00 p.m. and 8:00 a.m. of any radio, television, phonograph, tape player, compact disc player, drum device for the playing of recorded music or musical instrument.
  - (5) Construction, repair, remodeling, demolition, drilling or excavation work between 9:00 p.m. and 8:00 a.m.
  - (6) The operation or use between 10:00 p.m. and 8:00 a.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds.
  - (7) The creation of a loud, unnecessary noise in connection with the loading or unloading of any vehicle or the opening and closing or destruction of bales, boxes, crates or other containers.
  - (8) Yelling, shouting, hooting, whistling and singing between the hours of 9:00 p.m. and 8:00 a.m.

- (9) The keeping of any animal or bird which disturbs the comfort or repose of any persons in the vicinity by causing frequent or long continued noise.
- (c) *Barking or howling animals.* It shall be unlawful for any person to allow or permit any dog or other animal to bark, howl, or in any other manner disturb the quiet of any person.
- (d) *Exceptions.* The provisions of this section shall not apply to the following:
  - (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger.
  - (2) Sound made to alert persons to the existence of an emergency, danger or attempted crime.
  - (3) Activities or operations of governmental units or agencies.

~~(e) *Discretionary exceptions.* Upon written request made to the zoning administrator, the zoning administrator may grant an exception to the prohibitions set forth in subsections (b)(1), (2), (3), (4), (5) and (6). In determining whether or not to grant the exception and the scope of the exception granted, the zoning administrator shall consider the bona fide needs of the applicant, the benefit to the public at large if the exception is granted, and the impact the granting of the exception will have on persons who are reasonably likely to be affected by the granting of the exception. In the event an exception is granted under the provisions of this subsection, it may be rescinded by the zoning administrator at any time and without prior notice.~~

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**File Attachments for Item:**

Order 26,647 - authorizing execution of a Quitclaim Deed to transfer all of the City's right, title, interest and estate pertaining to property at 12-14 Marion Street to 5 National Highway LLC for the sum of Ten Dollars (\$10.00)



**- ORDER -**  
*of the*  
**Mayor and City Council of Cumberland**  
**MARYLAND**

**ORDER NO. 26,647**

**DATE: June 2, 2020**

**ORDERED, By the Mayor and City Council of Cumberland, Maryland,**

**THAT,** the Mayor be and is hereby authorized to execute a Quitclaim Deed to transfer all of the City's right, title, interest and estate pertaining to 12-14 Marion Street, Cumberland, MD, to 5 National Highway LLC for the sum of Ten Dollars (\$10.00).

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**Raymond M. Morriss, Mayor**

**DEED ONLY- NO TITLE SEARCH PERFORMED**

**THIS QUITCLAIM DEED**, made this 2nd day of June, 2020, by and between **Mayor and City Council of Cumberland**, a Maryland municipal corporation, party of the first part, and **5 National Highway LLC**, an Indiana limited liability company, party of the second part.

**WITNESSETH:**

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and for other good and valuable considerations, the receipt of all of which is hereby acknowledged, the party of the first part does hereby does hereby quitclaim unto party of the second part, its successors and assigns, all of the party of the first part's right, title, interest and estate unto the below-described property to the party of the second part, its successors and assigns,

**ALL** that lot or parcel of ground situated on the Westerly side of Marion Street in the City of Cumberland, Allegany County, Maryland, designated in former deeds as Lot No.14 in Reynold's Addition to Cumberland, but now within the lines of Lot No. 14 in The Cumberland Improvement Company's Eastern Addition to Cumberland, and more particularly described as follows, to-wit:

**BEGINNING** at a point on the West side of Marion Street distant North 89 degrees West 20 feet, South 1 degree West 194 feet from a stone marked "R" standing at the intersection of the center line of said Marion Street with the South side of Baltimore Avenue, and running thence with the West side of Marion Street, South 1 degree West 40 feet; thence at right angles to Marion Street, North 89 degrees West 100 feet to the East side of an alley 12 feet wide; thence with the East side of said alley, North 1 degree East 40 feet to Lot No. 13 of said Eastern Addition; then with the line of said lot, South 89 degrees East 100 feet to the beginning.

**IT BEING** the same property described in the deed from Wells Fargo Bank, N.A.to Mayor and City Council of Cumberland dated March 6, 2018, and recorded among the Land Records of Allegany County, Maryland in Book 2373, Page 334.

**TOGETHER** with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

**TO HAVE AND TO HOLD** the above-described property unto the party of the second part, its successors and assigns in fee simple forever.

WITNESS the hand and seal of the party of the first part the day and year first above written.

WITNESS/ATTEST:

**MAYOR AND CITY COUNCIL  
OF CUMBERLAND**

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

By: \_\_\_\_\_(SEAL)  
Raymond M. Morriss, Mayor

**STATE OF MARYLAND,  
ALLEGANY COUNTY, TO WIT:**

**I HEREBY CERTIFY**, that on this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared **Raymond M. Morriss**, known to me or satisfactorily identified to be the person whose name is subscribed to the within instrument, the Mayor of Mayor and City Council of Cumberland, a Maryland municipal corporation, and acknowledged the foregoing to be the act and deed of said Mayor and City Council of Cumberland; and at the time made oath that he is duly authorized by it to make this acknowledgment; and he further certified under the penalties of perjury that the actual consideration for the foregoing conveyance is \$0.00, and he further made oath in due form of law that this transaction is not subject to the provisions of Section 10-912 of the Tax General Article of the Maryland Annotated Code as the grantor is a resident of the State of Maryland.

WITNESS my hand and Notarial Seal.

\_\_\_\_\_  
**NOTARY PUBLIC**

**My Commission Expires:** \_\_\_\_\_

**I HEREBY CERTIFY** that the within and foregoing document was prepared by, or under the supervision of, the undersigned, a Maryland attorney, and that no title search was performed in connection with its preparation.

\_\_\_\_\_  
**MICHAEL SCOTT COHEN**

**File Attachments for Item:**

. Order 26,648 - authorizing execution of an Outdoor Dining Lease Agreement with Ristorante Ottaviani LLC detailing terms for the use of the public right-of-way immediately in front of and adjacent to 25 N. Centre Street for outside cafe dining for a one-year term effective June 1, 2020 through May 31, 2021

**- ORDER -**  
*of the*  
**Mayor and City Council of Cumberland**  
**MARYLAND**

**ORDER NO. 26,648**

**DATE: June 2, 2020**

**ORDERED, By the Mayor and City Council of Cumberland, Maryland,**

**THAT,** the Mayor be and is hereby authorized to execute an Outdoor Dining Lease Agreement by and between the Mayor and City Council of Cumberland and Ristorante Ottaviani LLC detailing terms for the use of the public right-of-way immediately in front of and adjacent to 25 N. Centre Street for outside café dining for a one (1) year term effective June 1, 2020 through May 31, 2021.

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**Raymond M. Morriss, Mayor**

THIS LEASE AGREEMENT ("Lease") is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the **MAYOR AND CITY COUNCIL OF CUMBERLAND**, a Maryland municipal corporation (the "City") and **RISTORANTE OTTAVIANI, L.L.C.** ("Lessee").

**WHEREAS**, Lessee operates a restaurant at 25 N. Centre Street, Cumberland, MD 21502;

**WHEREAS**, the City maintains and/or owns the public right-of-way immediately in front of the restaurant;

**WHEREAS**, Lessee wishes to expand its operation to include outside café dining on a portion of the public right-of-way adjacent to its restaurant; and

**WHEREAS**, the City has determined that it is in the interest of the general public to permit the use of a portion of the right-of-way for café dining.

**NOW, THEREFORE**, the parties hereto hereby agree as follows:

1. **Demise.** The City hereby leases to Lessee a certain parcel of property located on the public right-of-way adjacent to Lessee's restaurant, the area of which encompasses that portion of the right-of-way as shown on the attached map (**Exhibit I**), and hereinafter referred to as the "Demised Premises," the corners of which shall be marked by the Lessee subject to the approval of the City. Notwithstanding the foregoing, Lessee shall be responsible for allowing pedestrian traffic to pass through the Demised Premises at a location or locations to be approved by the City or as directed by the City, subject to modification as directed by the City during the term of this Lease.

2. **Term.** The term of this lease shall commence on June 1, 2020, and shall terminate on May 31, 2021, unless sooner terminated as provided for herein.

3. **Use of Property.** The Demised Premises shall be occupied and used by Lessee so as to provide outdoor café dining to Lessee's restaurant customers. Lessee agrees that, in its use of the Demised Premises, it will comply with all present and future valid local, state and federal laws, ordinances, rules and regulations related to the occupancy or use of the Demised Premises.

Lessee shall have the right to place its chairs, tables and other furnishings in the Demised Premises during the hours of 4:00 p.m. to 1:00 a.m. They shall be removed therefrom at all other times. At those other times, members of the public shall have free and unfettered use of the Demised Premises subject to any limitations that may be imposed by applicable law. During the hours of 4:00 p.m. through 1:00 a.m., members of the public may traverse the Demised Premises by means of the approximately 5-foot wide pathway shown on the Exhibit I attached hereto.

Lessee shall not make any alterations, additions or improvements to the Demised Premises without Landlord's prior written approval, which approval may be withheld for any reason or no reason at all. Lessor shall repair any damages the Demised Premises sustains on account of the Lessee's alterations, additions or improvement to the Demised Premises, said repairs to be

performed in such a manner as to restore the Demised Premises to at least as good of a condition as it was in prior to the damage.

4. **Special Events.** The City shall be entitled to suspend Lessee's use of the Demised Premises during special events, such as Heritage Days, and shall give Lessee notice of such suspension at least ten (10) days prior to the scheduled event.

5. **Rent.** Lessee, in consideration of the leasing of the Demised Premises and the performance by the City of the covenants to be performed by it, agrees to pay rent to the City in the amount of One Dollar (\$1.00).

6. **Permits, Licenses, Fees.** In addition to the rent specified above, Lessee shall obtain all permits and licenses required by any laws, ordinances, rules or regulations of the City and/or any Federal, State or other governmental agency and shall pay all related fees. The execution of this Lease does not constitute permit approval or licensure by or on the part of the City.

7. **Demarcation / Alcoholic Beverages.** Lessee shall place stanchions and chains along the perimeter of the Demised Premises so as to control ingress and egress therefrom. Lessee shall be responsible for monitoring the area so as to assure that patrons do not take alcoholic beverages off the premises of the Lessee.

8. **Furnishings.** Lessee shall be responsible for providing all furnishing and equipment for use by its staff and patrons within the area of the Demised Premises. Any and all such furnishings must be approved by the City before use within said area. Said furnishings may only be placed on the Demised Premises during the hours of operation of Lessee's restaurant. At all other times, said furnishings must be stored in a neat and orderly manner.

9. **Rules And Regulations.** The City shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations with respect to the Demised Premises. Lessee shall faithfully observe and comply with such rules and regulations.

10. **Assignment And Subletting.** This Lease and the rights granted hereby shall not be assigned or sublet by Lessee except with the prior written consent of the City. Said consent may be withheld for any reason or no reason at all.

11. **Termination.** Except as provided for hereinafter, either party shall have the right to cancel this Lease by giving the other thirty (30) days advance written notice.

12. **Right of Entry.** The City shall have the right to enter upon the Demised Premises at any time for the purpose of operating, maintaining, repairing, restoring or replacing any public utilities. It may also enter upon the Demised Premises for the purpose of inspecting it to ensure that Lessee is complying with its obligations under the terms of this Lease.

13. **Maintenance.** Lessee shall be responsible for keeping the Demised Premises and all items located therein in good condition and repair. The Demised Premises shall be kept free of garbage and refuse.

14. **Insurance.** So long as this Lease is in effect, Lessee shall, at its expense, maintain comprehensive general public liability insurance covering personal injury and property damage occurring on the Demised Premises which shall include the “MAYOR AND CITY COUNCIL” as an additional insured. Such policy shall have minimum single combined liability limits of One Million Dollars (\$1,000,000.00) and shall be written on an occurrence basis. The insurance policy shall include an endorsement requiring the insurer to provide the City with no less than thirty (30) days advance written notice of the cancellation of the policy. Immediately upon the execution of this Lease, Lessee shall provide the City with a certificate of insurance evidencing its compliance with the requirements of this section.

15. **Indemnification.** Lessee shall indemnify, hold harmless and defend the City, its officers, officials, agents, and employees from and against any and all any and all liabilities, damages, claims, costs and expenses, including, but not limited to, attorneys’ fees, court costs and litigation expenses, arising from, as a result of, or as an incident to:

- a) Lessee’s use of the Demised Premises or the conduct of its business on the Demised Premises;
- b) any act or omission done, permitted or suffered by Lessee, its contractors, licensees, invitees, agents, representatives, or employees on or about the Demised Premises; or
- c) any breach or default in the performance of any obligation of Lessee under the terms of this Lease.

16. **Default.** After the occurrence of any of the following events, the City shall have the right to terminate this Lease immediately:

- a) In the event that Lessee shall fail to keep and perform, or shall violate the terms, covenants, and conditions of this Lease on its part to be kept and performed, and Lessee shall not have cured or corrected this failure within five (5) days after written notice shall have been given to Lessee.
- b) If Lessee shall make an assignment for the benefit of its creditors, or shall file a petition in bankruptcy or shall be adjudged bankrupt, or the interest of Lessee under this Lease shall be levied upon and sold upon execution or shall, by operation of law, become vested in another person, firm or corporation, because of the insolvency of Lessee, or in the event that a receiver or trustee shall be appointed for Lessee or the interest of Lessee under this Lease.
- c) In the event that Lessee shall vacate or abandon the Demised Premises (or its restaurant located adjacent thereto), or shall permit them to remain vacant and unoccupied without the consent of the City first obtained.

17. **Repossession Upon Default.** Upon the occurrence of any one or more of the events of default or the expiration of any termination notice, Lessee’s right to possession of the Demised Premises shall terminate, and Lessee shall surrender possession of it immediately. In this event, Lessee grants to the City full and free license to enter into and upon the Demised Premises to take possession with or without process of law, and to expel and remove Lessee or any other person who may be occupying it.



18. **Other Remedies.** Each and every of the rights, remedies and benefits provided by this Lease shall be cumulative and shall not be exclusive of any other of such rights, remedies and benefits, or of any other rights, remedies and benefits allowed by law or equity.

19. **Waiver.** One or more waivers of any term, covenant or condition of this Lease by the City shall not be construed to be a waiver of a further or subsequent breach of the same term, covenant or condition.

20. **Notice.** Except as otherwise provided herein, all notices required to be given by the parties to one another under this Lease shall be properly given only if made in writing and either deposited in the United States mail, postage prepaid, certified with return receipt requested, or delivered by hand (which may be through a messenger or recognized delivery or courier service) and addressed as follows:

To the City:

Jeffrey Rhodes  
City Administrator  
57 N. Liberty Street  
Cumberland, MD 21502

To Lessee:

Toni Ottaviani  
Ristoranti Ottaviani, L.L.C.  
25 N. Centre Street  
Cumberland, MD 21502

21. **Governing Law.** The laws and decisions of the State of Maryland shall govern and control the construction, enforceability, validity and interpretation of this Lease, and all other agreements, instruments, documents, exhibits, or schedules executed by the parties pertaining or relating to this Lease or the transactions contemplated herein. Any litigation arising out of this Lease or its terms shall be instituted in the Circuit Court for Allegany County, Maryland or the District Court of Maryland for Allegany County, and the parties hereto waive any objection to the venue of such proceedings being in said courts and they further waive any claims that such courts constitute inconvenient fora.

22. **Gender/Tense/Conjugation.** The use of any gender, tense, or conjugation herein shall be applicable to all genders, tenses and conjugations. The use of the singular shall include the plural and the plural shall include the singular.

23. **Captions.** The marginal captions of this Lease are for convenience only and in no way define or limit the intents, rights or obligations of the parties hereunder.

23. **Severability.** Should any provision of this Lease be found, held or deemed to be unenforceable, voidable or void, as contrary to law or public policy, the parties intend that its remaining provisions shall nevertheless continue in full force and effect and be binding upon the parties and their respective successors and assigns.

**24. Jury Trial Waiver.** THE PARTIES HERETO WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO WHICH ANY OF THEM MAY BE PARTIES ARISING OUT OF OR IN ANY WAY PERTAINING TO THIS LEASE. IT IS AGREED AND UNDERSTOOD THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH ACTIONS OR PROCEEDINGS, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS LEASE.

**25. Entire Agreement.** This Lease contains the final and entire agreement between the parties, and neither they nor their agents shall be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained.

**26. Binding Effect.** This Lease shall inure to the benefit of the parties hereto and it shall be binding upon their respective personal representatives, heirs, successors and assigns.

**27. Public Health Contingencies.** The terms and conditions of this Lease are subject to all orders, ordinances, laws, statutes, rules and regulations of local, state and federal governments, including, but not limited to, those pertaining to the COVID-19 pandemic and/or other public health issues and including those which are presently existing and such measures passed or issued in the future.

**IN WITNESS WHEREOF,** the parties hereto have set their hands and seals on the day and date first above written.

WITNESS/ATTEST:

**MAYOR AND CITY COUNCIL  
OF CUMBERLAND**

\_\_\_\_\_  
Marjorie A. Woodring, City Clerk

By: \_\_\_\_\_  
Raymond M. Morriss, Mayor

**RISTORANTE OTTAVIANNI, L.L.C.**

\_\_\_\_\_ By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name and title

CENTRE STREET