

**ORDINANCE NO. 3719**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, ENTITLED "AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS SECTIONS 5-237, 5-238, 5-240, 5-273, 5-279, 5-303, 5-373, 5-374, 5-376 AND 5-408 OF THE CODE OF THE CITY OF CUMBERLAND, ALL BEING A PART OF THE CITY'S HOUSING CODE, FOR THE PURPOSE OF COMPREHENSIVELY AMENDING THE HOUSING CODE TO EFFECT COMPLIANCE WITH APPLICABLE STATE LAW, CHANGING THE RULES APPLICABLE TO OCCUPANCY-BASED INSPECTIONS OF RENTAL DWELLING UNITS, REQUIRING TENANTS TO SUBMIT WRITTEN DOCUMENTATION EVIDENCING A PRIOR EFFORT TO COMMUNICATE COMPLAINTS RELATIVE TO PROPERTY CONDITIONS TO THEIR LANDLORDS BEFORE SUBMITTING THOSE COMPLAINTS TO THE CITY, CHANGING THE PENALTY PROVISIONS FOR FAILURE TO REGISTER RENTAL DWELLING UNITS AND CORRECTING TYPOGRAPHICAL, GRAMMATICAL AND FORMATTING ERRORS IN THE CURRENT VERSION OF THE HOUSING CODE."

WHEREAS, article VI of chapter 5 of the Code of the City of Cumberland sets forth the City's Housing Code;

WHEREAS, the Housing Code was last comprehensively amended in 2007;

WHEREAS, upon the implementation of the aforesaid revisions to the Housing Code, City staff discovered that certain changes should be made to its terms for the below set forth reasons;

WHEREAS, the changes to section 5-237(b) are for the purpose of ensuring that rental dwelling units will not be occupied in violation of the State's lead paint law by requiring landlords to execute the certification under the

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penalties of perjury mandated by section 19-103 of Article 24 of the Annotated Code of Maryland;

WHEREAS, the changes to section 5-237(i) alter the requirement that a rental dwelling unit be inspected upon every change in occupancy to requiring new inspections based upon changes in occupancy only in those instances where an inspection has not been conducted in the prior twelve month period;

WHEREAS, the changes to section 5-237(k) requiring tenants to communicate with their landlords relative to complaints regarding property conditions before submitting those complaints to the City are for the purpose of encouraging those parties to resolve their complaints on their own before asking the City to intervene, it also being expected that the changes will mitigate the number of improper retaliatory complaints which are submitted to City staff;

WHEREAS, the changes to section 5-237(l) provide for the doubling and quadrupling of late paid rental registration fees and the imposition of a municipal infraction with specified fines are for the purpose of encouraging landlords to pay their rental registration fees in a timely manner;

WHEREAS, the City is no longer required to offer landlord training courses but, nevertheless, may offer them pursuant to the changes made to section 5-240 in that, as landlords are no longer permitted to self-inspect rental dwelling units, City-offered landlord training is less important and should not be mandated by the Code;

WHEREAS, the other changes to the Housing Code effected by this Ordinance are for the purpose of correcting typographical, grammatical and formatting errors

and do not affect the substance of the provisions thereof;  
and

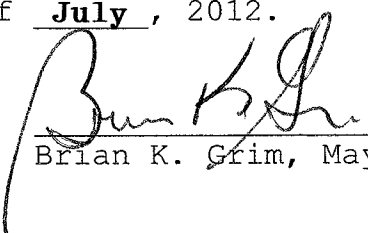
WHEREAS, the amendments to the Housing Code effected by this Ordinance are deemed to be necessary to effect the good government of the City of Cumberland and to protect the health, comfort and convenience of its citizens.

NOW, THEREFORE:

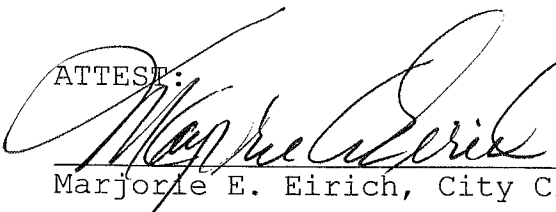
SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND, MARYLAND, that sections 5-237, 5-238, 5-240, 5-273, 5-279, 5-303, 5-373, 5-374, 5-376 and 5-408 of the Code of the City of Cumberland be and they are hereby repealed and reenacted, the said reenacted version being set forth below, a text edited version being attached hereto as Exhibit A:

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

Passed this 31st day of July, 2012.

  
\_\_\_\_\_  
Brian K. Grim, Mayor

ATTEST:

  
\_\_\_\_\_  
Marjorie E. Eirich, City Clerk

1st reading: 7/17/12

2nd reading: 7/31/12

3rd reading: 7/31/12

Passed: 7/31/12

## EXHIBIT A

**NOTE:** All proposed text deletions are identified by ~~strikethrough~~ text and all proposed text additions are identified by underlined text. Comment notes on the right margins of the text explain the reasons for the proposed changes.

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

(a) It shall be unlawful for the owner(s) of any rental dwelling unit to permit occupancy of any rental dwelling unit by another unless said rental unit is currently licensed by the City of Cumberland and said license has not been denied, revoked, or suspended.

(b) Further, it shall be unlawful for the owner(s) of any rental dwelling unit to permit occupancy of any rental dwelling unit by another without providing proof of compliance with applicable Maryland Department of Environment (MDE) Regulations, including, but not limited to, providing the certification under the penalties of perjury required by Md. Code Ann., Art. 24 § 19-103.

(c) By January 1, 2008, and each July 1 annually thereafter, every owner of a rental dwelling unit, whether occupied or vacant, shall obtain a license from the director for each unit for which he/she, rents, leases, or lets, whether for consideration or not, on a form to be provided by the director.

(d) For each licensed unit there shall be an annual licensing fee, determined by the mayor and city council, to be paid at the time the owner applies for the annual license. All owners whose rental units are boarding units shall pay a license fee in the same amount designated by the mayor and city council for each boarding unit.

(e) Any person becoming an owner of a rental unit shall apply for a rental license on the date of the property transfer; however, the new owner will not have to pay the license fee until the next July 1 licensing date if the previous owner licensed the property and paid the licensing fee for the current year.

(f) License fees paid shall not be refunded.

(g) The application for the license shall be completed on forms developed by the director. At a minimum, the application for the license shall require the production of the following information:

- (1) A description of the rental by street number, unit or otherwise, in such manner as to enable the director to readily identify the same.
- (2) The name and address of the owner of record and agent, when applicable. If the mailing address is a post office box, street addresses shall also be required.
- (3) An owner's and or agent's signature will be required on the licensing application stating that they have knowledge and an understanding of the

City of Cumberland's most recent Housing Code. See section 5-240 for more information.

(4) If the owner is required to appoint an agent, the agent's consent to serve as such shall be duly noted on the form and the agent shall certify that he or she understands the agent's obligations as required by this code and accepts the same. Further, if the agent is a business entity, the application shall require that the street address and mailing address of the agent's resident agent in the State of Maryland.

**(h)** Owners of rental dwelling units who do not reside within Allegany County, Maryland, shall be required to appoint an agent or agents(s) for each rental dwelling unit owned. An agent may serve as the agent of the owner for multiple rental dwelling units. The agent shall serve as the owner's local representative for all purposes related to this code. The agent shall be responsible for the management, maintenance, operation, and rental of an owner's rental dwelling unit(s). Agents must reside within Allegany County, Maryland or have principal offices located within Allegany County, Maryland. In designating an agent as such in a license application, the owner authorizes the agent to accept service of process on his behalf for all purposes related to this code.

~~(i) Every licensed rental dwelling unit shall be inspected by the owner and/or agent and tenant prior to occupancy. The director will provide an inspection form that must be completed and signed by the owner and/or agent and tenant prior to occupancy. Every licensed dwelling unit shall be inspected on an occupancy basis by the Department of Community Development. No occupancy inspection shall be required if an occupancy inspection occurred within twelve (12) months from the date of the most recent occupancy inspection. After twelve (12) months, an occupancy inspection shall be required prior to re-occupancy of the dwelling unit.~~ In addition, every licensed rental dwelling unit shall comply with the Maryland Lead Law and complete any required lead inspection(s) prior to occupancy. All inspection documentation must be maintained by the owner and/or agent and be available for review by the City of Cumberland upon request.

**(j)** The director must be notified within ten (10) days of any change in the designated agent.

**(k)** In the event of a complaint, the director or his/her designee shall have the authority to inspect a rental dwelling unit and the owner and/or agent of a rental dwelling unit shall make said rental dwelling unit available for inspection by the director or his/her designee at all reasonable times.

Notwithstanding the foregoing, the owner, agent or tenant of any rental dwelling unit subject to this article may request inspections of said unit(s) at any time, the fee for said inspections to be set by order of the mayor and city council, which request shall be in writing, and signed by the person submitting the request, and which shall set forth the specific complaint the individual making the request has with the unit(s) and which such request shall further set forth what attempts have been made to resolve the dispute between the parties. Except for conditions that present an imminent danger to the health or safety to occupants of a rental dwelling unit, before accepting such a complaint, the

director or his designee shall require the tenant to provide documentation showing that the landlord was provided with a written request for the correction of the conditions which are the subject of the complaint no less than ten (10) days in advance of the date of the presentation of the complaint. A copy of the written request shall serve as sufficient documentation for this purpose.

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

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

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

A rental dwelling unit license may be denied, revoked or suspended in whole or in part at any time by the department of community development if the owner and/or agent fails to comply with any section of this article or after receipt of a valid complaint, the owner fails to eliminate violations of the housing code identified during any inspection within the time ordered in the notice. The denial, revocation or suspension shall remain in effect until the owner has remedied said violations, the department of community development has verified compliance through a follow up inspection, and the owner and/or his agent has attended mandatory training set forth by the mayor and city council. ~~Further~~, denial, revocation or suspension of a rental dwelling unit license shall be in addition to and not in substitution of the penalties set forth in section ~~5-244~~ 5-245.

**Sec. 5-240. Training.**

Upon adoption of the housing code, ~~(revised 2007)~~ owners or agents, where applicable, may attend a City of Cumberland approved landlord training course. The City of Cumberland ~~will~~ may provide ~~ongoing~~ training that owners and/or agents can voluntarily attend to foster an understanding of the most recent housing code adopted.

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

Emergency lighting and exit signs equipped with battery backup are required in all common hallways wherein a total of five (5) units are present ~~effective July 1, 2010~~. All units should have exit signs as required by state laws and ordinances. All emergency equipment shall be provided and maintained so as to be clearly visible at all times when the building is occupied.

**Sec. 5-279. Electrical outlets.**

One (1) duplex receptacle is required for every fifty (50) square feet of floor space in a room and spaced at least six (6) feet apart from one another. Receptacles closer than six (6) feet will be considered one (1) receptacle ~~effective July 1, 2010~~. No extension cords shall be used as permanent outlets.

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

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

**(a) Exterior.**

- (1) Roofing shall be provided to prevent the entrance of moisture and shall be maintained by renewal, repair, waterproofing or other suitable means.
- (2) Gutters and downspouts shall be provided to properly collect, conduct and discharge the water from the roof and not adversely affect adjoining properties.
- (3) Every foundation, wall, floor, ceiling, window, door and hatchway shall be maintained so as to be reasonably weatherproof and waterproof.
- (4) Every stairway, including inside stairs with three (3) or more risers must have a handrail.
- (5) Stairs, porches and appurtenances thereto shall be kept in sound condition and good repair.
- (6) Any walkway, terrace, or porch over thirty (30) inches in height from ground level must have a handrail.
- (7) Exterior wood and ferrous metal surfaces shall be protected from the elements against decay by paint or other protective coating.
- (8) Dwelling structure must have the appropriate building address permanently affixed, be of a contrasting color, and visible from the street as per Ordinance No. 3542. Where a structure is not visible from the street, a second address is required to be placed within five (5) feet of the primary entrance to the property.
- (9) Entry door into the structure shall be constructed of a durable, exterior grade material.
- (10) Exterior property areas of all premises shall be kept free of any object, material, or condition, including abandoned or immobile motor vehicles, which may create a health, accident or fire hazard, or which is a public nuisance.
- (11) All sheds, barns, garages, fences, and other appurtenant structures on premises shall be maintained in good repair, free from health, accident or fire hazards or they shall be removed from the premises.
- (12) Yard spaces and other open area appurtenant to a dwelling shall be graded, paved or otherwise constructed to properly drain water around or away from premises.
- (13) Windows shall be easily openable, shall have panes without cracks or holes, and the sash shall fit properly.
- (14) High grass and noxious weeds shall be destroyed and removed as provided by the laws and ordinances of the City of Cumberland.

**(b) Interior.**

- (1) Every supplied facility, piece of equipment or utility which is required under this code shall be so constructed or installed to function safely and effectively and shall be maintained in good working condition.
- (2) Doors accessing an apartment dwelling from common hallways must be constructed of a solid core material ~~effective July 1, 2010~~, and must have a twenty (20) minute fire rating. Doors must have the appropriate numeral permanently affixed for identification. This number is to be no smaller than two (2) inches.
- (3) Ceilings, walls and floors shall be maintained free of holes, cracks or loose and deteriorated materials so that parts which become defective do not constitute a hazard to the occupants nor a harborage for insects or vermin. Loose or defective sections shall be removed and replaced so that the joint between the repaired and the sound material is made flush and smooth. Split, splintered or badly worn floor boards must be replaced.
- (4) All walls, ceilings, woodwork, doors and windows shall be kept clean and free of any flaking, loose or peeling paper or paint.
- (5) Doors to habitable rooms, bathrooms and toilet rooms must fit the opening in which they are hung and be properly equipped with hardware.

**Sec. 5-373. Heat.**

If the heating facilities of any dwelling or dwelling unit are not under the control of the occupant thereof, and except as otherwise provided below in this section, it is the responsibility of the owner operator, or agent in charge, to operate the heating facilities in accordance with sections 5-282 and 5-283 and 5-284 of this code.

**Sec. 5-374. ~~Ratproofing~~ Rat Proofing and pest extermination.**

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

**Sec. 5-376. ~~n~~Notification of Exits.**

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

**Sec. 5-408. Bathing facilities.**

Every dwelling unit in any boardinghouse shall contain within a room which affords privacy, a bathtub or shower in good working condition, which shall be properly connected to both hot and cold water lines and to the public sanitary sewer system. Such bathing facility shall be within and accessible from within a room which affords privacy, with at least one (1) bathtub or shower for each ten (10) persons or fraction thereof who are occupants of boarding units. Such bathtub or shower shall be in good working condition and shall be properly connected to both hot and cold water lines and to the public sanitary sewer system. Where such bathtub or shower facility is not provided within the boarding unit, it shall be within and accessible from within the building from a common hall and not more than one (1) story removed from the boarding unit intended to



be served by such facility. The floor of any such room shall be made impervious to water to prevent structural deterioration and any development of unsanitary conditions. –

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-----No facilities in the basement or cellar shall count in computing the number of facilities required by this section.

We, the undersigned, are notifying you of our objection to the reinstatement of the City inspections for rental properties as well as the registration penalties as they are proposed.

Ray Bell  
Owner Property Mgr Tenant (circle one)

7-15-12  
Date

The current ordinance in place (a compromise between the City and landlords several years ago) is sufficient with the addition of the requirement that the City is furnished a copy of the certificate that is required by the State of Maryland at each tenant turnover. If the property in question is one that is not required to be inspected by the State, then the City should require an inspection. Those inspections could be privatized in order to save the City money.

Ray Bell  
Owner Property Mgr (circle one)

7-15-12  
Date

**NOTICE  
MAYOR AND CITY COUNCIL OF CUMBERLAND**

**NOTICE OF PASSAGE OF ORDINANCE AMENDING THE CITY'S HOUSING CODE AND PROVIDING FOR AN  
INCREASE IN THE FINES ASSOCIATED WITH LATE RENTAL REGISTRATION**

**NOTICE** is hereby given that the **Mayor and City Council of Cumberland** passed Ordinance No. 3719 at their regular meeting on July 31, 2012, which repeals and reenacts with amendments Sections 5-237, 5-238, 5-240, 5-273, 5-279, 5-303, 5-373, 5-374, 5-376, and 5-408 of the Code of the City of Cumberland to effect compliance with State law, to change the rules applicable occupancy-based inspection of rental dwelling units, and to require tenants to submit written documentation pertaining to property conditions. The Ordinance also provides for a change in the penalty provision for failure to register rental dwelling units as follows:

**Section 5-237 (I)** Any owner of a rental dwelling unit liable to pay the license fee imposed by this section who fails to pay the same within thirty (30) days from the time it becomes due and payable shall be subject to a municipal infraction. The terms of this paragraph shall apply to all such license fees due on or before June 30, 2013.

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

This Ordinance shall take place from the date of its passage.

MAYOR AND CITY COUNCIL OF CUMBERLAND  
/s/ Marjorie A. Eirich  
City Clerk

ADV: Times News – August 8,9,10