

**COTTAGE CITY COMMISSION  
TOWN OF COTTAGE CITY**

**EMERGENCY ORDINANCE NO. 2025-01**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 15 (PUBLIC ETHICS ORDINANCE), SECTION 15-6 (DISCLOSURE AND USE OF CONFIDENTIAL INFORMATION) OF THE CODE OF THE TOWN OF COTTAGE CITY**

Introduced by: The Cottage City Commission

**WHEREAS**, pursuant to Section 5-202 of the Local Government Article of Md. Ann. Code, the legislative body of a municipality in this State shall have general power to pass such ordinances, not contrary to the Constitution of Maryland or public general law, as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

**WHEREAS**, pursuant to § 18 of the Town Charter, the Commission shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or the Town Charter as it may deem necessary for the good government of the Town; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the Town and visitors thereto and sojourners therein; and

**WHEREAS**, under Md. Ann. Code, GP Art., § 4-301(a)(1), inspection of a public record is to be denied where “by law, the public record is privileged or confidential;” and

**WHEREAS**, the Md. Public Information Act (PIA), §4-101 *et seq.* of the GP Article of Md. Ann. Code, grants persons with the right to review available records that are disclosable and to obtain copies of those records, and a public record is defined as the original or copy of any documentary material in any form created or received by an agency in connection with the transaction of public business, and included in this definition are written materials, books, photographs, photocopies, films, microfilms, records, tapes, computerized records, maps, drawings and other materials; however, some public records are confidential under federal or state statutes, under court rules, or under various common law privileges such as attorney-client privilege and executive privilege, and are therefore not releasable under the PIA, and in addition, the Town has the right to withhold records if it is determined that disclosure of those records would be “contrary to the public interest.”

**WHEREAS**, pursuant to § 15-2 of the Town Code (Ethical standards), in order to avoid becoming involved or implicated in a conflict of interest or impropriety or, just as important, an appearance of conflict of interest or impropriety, elected officials, appointees and Town employees shall not use information acquired in confidence by reason of their official position from a Town customer, supplier, lessee or contractor for other than Town purposes; and

**WHEREAS**, pursuant to § 15-6 of the Town Code (Disclosure and use of confidential information), other than in the discharge of official duties, an elected or appointed official or employee may not disclose or use confidential information that the official or employee acquired by reason of the official's or employee's public position and that is not legally disclosable or available to the public; and

**WHEREAS**, Section 55 (Passage of ordinances; effective date; publication) of said Charter authorizes, in cases of emergency, that the provision that an ordinance must be passed not less than six (6) nor more than sixty (60) days after the meeting at which it was introduced may be suspended by the affirmative votes of four members of the commission, and that an emergency ordinance shall become effective on the date specified in the ordinance, and that a fair summary of every ordinance, including emergency ordinances, shall be published at least once within ten days after the date of passage in a newspaper or newspapers having general circulation in the city; and

**WHEREAS**, the Cottage City Commission finds that individual commissioners and other officials and employees sometimes act as custodians of the confidential information generated by the Town or a department thereof; and

**WHEREAS**, the Town's disclosure and sharing of any information, including confidential information with a Town employee or official is not intended to be a waiver of any privilege held by the Town, including, but not limited to the deliberative process privilege, the executive privilege, or the attorney-client privilege; and

**WHEREAS**, the Commission finds that confidential information that is protected by law must at all times be used and maintained so as to prevent any disclosure to people or entities not authorized by the Town to receive, view or use the information, but that a document arbitrarily stamped or marked "Confidential" or "Exempt from Public Records Disclosure" alone will be generally insufficient to prevent disclosure unless the records fall within a recognized FOIA/MPIA exemption subject to review by a court that may be called to assess whether the Town official's decision concerning the record was correct; and

**WHEREAS**, the Cottage City Commission finds it to be in the best interest of the Town to amend Chapter 15 of the Town Code as provided below.

## **SECTION 1.**

**NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE COTTAGE CITY COMMISSION**, that the Code of the Town of Cottage City as amended herein below is hereby enacted, adopted, revised and amended such that said Code and the provisions of said Code and particularly the new provisions of Chapter 15 (Public Ethics) thereof shall henceforth read as follows:

## **CHAPTER 15**

### **PUBLIC ETHICS**

<u>CAPITALS</u>	:	Indicate matter added to existing law	Page 2 of 5
[Brackets]	:	Indicate matter deleted from existing law	
Asterisks * * *	:	Indicate that text is retained from existing law but omitted herein.	

\* \* \*

**§ 15-6. Disclosure and use of confidential information.**

A. Other than in the discharge of official duties, ~~[an]~~ A CURRENT OR FORMER elected or appointed official or employee may not disclose or use confidential information that the official or employee acquired by reason of the official's or employee's public position and that is not legally disclosable or available to the public.

B. "CONFIDENTIAL INFORMATION" IS DEFINED AS ALL INFORMATION, WHETHER TRANSMITTED ORALLY OR IN WRITING, THAT IS CONSIDERED BY LAW TO BE PRIVILEGED OR CONFIDENTIAL INFORMATION INCLUDING PERSONAL INFORMATION AS DEFINED IN §4-101 OF THE GP ARTICLE OF THE MD. ANN. CODE AND THE CONTENTS OR MINUTES OF CLOSED SESSIONS SUCH AS PERSONNEL MATTERS, LEGAL ADVICE, PENDING LITIGATION, COLLECTIVE BARGAINING, REAL PROPERTY ACQUISITION, AND CYBERSECURITY, AMONG OTHER SPECIFIC EXCEPTIONS OUTLINED IN THE MARYLAND OPEN MEETINGS ACT.

C. CONFIDENTIAL INFORMATION INCLUDES, BUT IS NOT LIMITED TO PERSONAL OR MEDICAL INFORMATION REGARDING TOWN OFFICIALS AND EMPLOYEES; PRIVATE FINANCIAL AND OTHER PERSONAL INFORMATION PROVIDED BY TOWN TAXPAYERS, LICENSE HOLDERS, CONTRACTORS, AND CUSTOMERS; INTELLIGENCE AND SECURITY INFORMATION, INCLUDING THE IDENTITY OF PERSONS FILING COMPLAINTS PROTECTED BY LAW; LEGALLY PROTECTED FORMULAS, WORK PRODUCT, DESIGNS, DRAWINGS, AND RESEARCH DATA OBTAINED OR PRODUCED BY THE TOWN, AND CONFIDENTIAL LEGAL OPINIONS, AND PRE-DECISIONAL PRIVILEGED RECOMMENDATIONS OR COMMUNICATIONS CONCERNING TOWN POLICIES AND ACTIONS.

D. PRIVATE EMAIL ACCOUNTS SHALL NOT BE USED TO ROUTINELY TRANSACT PUBLIC BUSINESS BY TOWN OFFICIALS AND EMPLOYEES. IF THEY ARE MADE OR RECEIVED BY AN OFFICIAL OR EMPLOYEE IN CONNECTION WITH THE TRANSACTION OF TOWN BUSINESS, EMAIL COMMUNICATIONS FROM OR TO PRIVATE EMAIL ACCOUNTS AND TEXT MESSAGES STORED OR ARCHIVED ON PRIVATE DEVICES ARE PUBLIC RECORDS. UNLESS EXPRESSLY AUTHORIZED BY THE COTTAGE CITY COMMISSION IN WRITING, AN OFFICIAL OR EMPLOYEE OF THE TOWN MAY NOT FORWARD, SHARE OR ARCHIVE CONFIDENTIAL TOWN EMAILS TO THEIR PRIVATE EMAIL ACCOUNTS, PRIVATE ELECTRONIC DEVICES OR THE PRIVATE EMAIL ACCOUNTS OF ANOTHER INDIVIDUAL OR ENTITY. THIS PROVISION DOES NOT INCLUDE ACCESSING TOWN AUTHORIZED SHARED ARCHIVES, DATA ACCOUNTS OR EMAIL ACCOUNTS MADE AVAILABLE BY THE TOWN ON-LINE USING PRIVATE COMPUTERS OR DEVICES.

E. ANY ELECTED OR APPOINTED OFFICIAL WHO IS UNCERTAIN AS TO WHETHER CERTAIN INFORMATION IS CONFIDENTIAL SHOULD CONSULT THE TOWN MANAGER, OR IF APPROPRIATE, THE TOWN ATTORNEY PRIOR TO RELEASING OR SHARING THE INFORMATION. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, CONFIDENTIAL INFORMATION SHALL NOT INCLUDE A PUBLIC RECORD OR OTHER INFORMATION SHOWING OR REPORTING ILLEGALITY, WASTE, ABUSE OF AUTHORITY OR CORRUPTION THAT MAY BE LEGALLY DISCLOSED OR RELEASED UNDER THE MARYLAND PUBLIC INFORMATION ACT AND ANY WHISTLEBLOWER LAWS OF THE STATE OR FEDERAL GOVERNMENTS INCLUDING BUT NOT LIMITED TO THE MARYLAND FAIR EMPLOYMENT PRACTICES ACT.

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## **SECTION 2.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that severability is intended throughout and within the provisions of this Ordinance, and if any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

## **SECTION 3.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that this Ordinance shall be codified and included within the Code of the Town of Cottage City.

## **SECTION 4.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that this Ordinance shall become effective immediately following its passage.

## **SECTION 5.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that a fair summary of this Ordinance shall be published at least once within ten days after the date of passage in a newspaper or newspapers having general circulation in the Town.

## **SECTION 6.**

**AND BE IT FURTHER ORDAINED AND ENACTED**, that the Commissioner-Chair shall be authorized to sign this Ordinance on behalf of the Commission.

**HAVING BEEN INTRODUCED AND HAVING BEEN READ** as an emergency ordinance and passed by a yea and nay vote of the Cottage City Commission with the affirmative votes of at least four (4) of the whole number of members elected to the legislative body as indicated

CAPITALS

: Indicate matter added to existing law

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[Brackets]

: Indicate matter deleted from existing law

Asterisks \* \* \*

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below at a Public Meeting of the Town of Cottage City held on this 29<sup>th</sup> day of April 2025, at 6:30 PM, in the Town Hall in Cottage City, Maryland.

**I HEREBY CERTIFY** that the above Emergency Ordinance No. 2025 – 01 was passed by the required yeas and nays of the Cottage City Commission on the 29th day of April 2025.

ATTEST:

TOWN OF COTTAGE CITY, MARYLAND

\_\_\_\_\_  
John Hoatson, Town Manager

By: \_\_\_\_\_  
Wanda Wheatley, Commissioner-Chairman

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Manager of the Town of Cottage City, Maryland, that on the 29th day of April 2025 with \_\_\_\_\_ Aye votes and \_\_\_\_\_ Nay votes, the aforesaid Emergency Ordinance 2025-\_\_ passed, and that a fair summary thereof shall be published at least once within ten days after the date of passage in a newspaper or newspapers having general circulation in the Town and it shall be posted in the Town Hall.

\_\_\_\_\_  
John Hoatson, Town Manager

CAPITALS

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