

**THE TOWN OF COTTAGE CITY
ORDINANCE 2022-06**

**An Ordinance Amending Chapter 5-12 – Permits, Licenses, and Registrations, and
Chapter 13B – Assessments and Taxation to Establish a Municipal Tax Rate for
Vacant Developed Property**

WHEREAS, The Town of Cottage City is an incorporated municipality governed pursuant to Article XI-E of the Constitution of Maryland; and

WHEREAS, pursuant to LG Art., § 5-202 of said State Code, the Cottage City Commissioners have the authority to pass such ordinances as they deem necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, to secure persons and property from danger and destruction, and to promote the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, the legislative body of the Town may establish and collect reasonable fees and charges for franchises, licenses, or permits granted by the municipality; or, associated with the exercise of a governmental or proprietary function exercised by a municipality; and

WHEREAS, pursuant to LG Art., § 5-205(d)(2) of said State Code, the legislative body of the Town is further empowered to pass ordinances to provide that any valid taxes, assessments or charges made against any real property within the Town shall be liens upon such property from the date they became payable; and

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, property tax rates are set by each unit of government, such as the State, counties, and incorporated cities and towns, for properties assessed (i.e., valued) by the State enabling said governments to set tax rates at the level required to fund governmental services of which said rates may be increased, decreased, or remain the same from year to year; however, should a proposed tax rate increase the total property tax revenues for a given class of real property, the governing body must advertise that fact and hold a public hearing on the new tax rate pursuant to Tax-Property Article, §6-308 of the Md. Ann. Code, which is called the Constant Yield Tax Rate process; and

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WHEREAS, pursuant to the Tax-Property Article, §6-303(a) of the Md. Ann. Code, if not otherwise prohibited by said Article, the governing body of a municipal corporation may set separate rates for any classes of property that is subject to the municipal corporation property tax, in each year after the date of finality (i.e., January 1) and before the following July 1, the governing body of each municipal corporation annually shall set the tax rate for the next taxable year on all assessments of property subject to municipal corporation property tax; and

WHEREAS, pursuant to the Tax-Property Article, §6-303(c) of the Md. Ann. Code, unless otherwise provided by the governing body of the municipal corporation there shall be a single municipal corporation property tax rate for all real property subject to municipal corporation property tax; and

WHEREAS, the Town currently has only two (2) classes of real property, despite having the authority to create multiple classifications as provided in the Tax-Property Article, §6-203(a) of the Md. Ann. Code whereby a “municipal corporation may impose municipal corporation property tax on those classes of property that it selects [i.e., the municipality itself is authorized to create and designate] to be subject to municipal corporation property tax;” and

WHEREAS, there are fourteen (14) administrative land use codes used by the Maryland State Department of Assessments and Taxation to describe every lot or parcel of real property as follows: agricultural, apartment, commercial, commercial condominium, commercial/residential, (residential) condominium, country club, exempt, exempt commercial, industrial, marsh, residential, residential/commercial, and town house; however, unlike the counties, the municipalities are not restricted to any enumerated statutory list or description when choosing to define classes of real property for municipal taxation purposes; and

WHEREAS, the Cottage City Commission finds that the City of Mount Rainier and the Town of Upper Marlboro have created a vacant developed real property tax in order to facilitate and streamline the sale of vacant developed properties to new owners and the Town wishes to enact a similar tax; and

WHEREAS, the Cottage City Commission further finds that residential property is a necessity of life to the inhabitant from which the owner-occupant or tenant derives little to no income, unlike commercial, agricultural, vacant developed, or industrial property, and that such a classification of real property is rationally related to an important governmental purpose in relieving the tax burden on residential property owners thereby making housing more affordable, and promoting the policies of making the Town a more sustainable, livable and family-oriented community.

WHEREAS, the Cottage City Commission further finds that the proliferation of vacant and abandoned buildings, structures, dwellings, and lots in Cottage City causes a deterioration of neighborhoods; and

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WHEREAS, the value of property in close proximity to vacant and abandoned buildings is negatively impacted; and

WHEREAS, vacant and abandoned buildings cause a serious threat to the safety and welfare of the residents of the Town; and

WHEREAS, increasing the tax rate on vacant developed properties will give the Town the resources to ensure the maintenance of vacant buildings.

SECTION 1

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE COTTAGE CITY COMMISSION, that the Code of the Town of Cottage City as stated herein below is hereby, enacted, adopted, revised and amended such that said Code and the provisions of said Code and particularly this revised Chapter 5 (Permits, Licenses and Registrations) and Chapter 13B (Assessments and Taxation) thereof shall henceforth read as follows:

Chapter 5. Permits, Licenses and Registrations

§ 5-12. Vacant property registration.

A. Intent and scope. The Cottage City Commission finds that the proliferation of vacant and abandoned buildings, structures, dwellings and lots in Cottage City causes a deterioration of neighborhoods and areas within the Town and has a negative impact on the value of property in close proximity to the vacant and abandoned buildings, structures, dwellings and lots. The Commission further finds that vacant and abandoned buildings, structures, dwellings and lots often cause a serious threat to the safety and welfare of the residents of the Town and erode the quality of life of all who live and work in the Town, and such properties are frequently places of infestation of rodents, vermin, insects, wild animals and other health-threatening creatures and diseases, provide shelter to criminals and vagrants who use such places to evade the police and to conduct illicit activities, and are a nuisance to children and adults alike. THE COTTAGE CITY COMMISSION FURTHER FINDS THAT THE PROLIFERATION AND CONTINUATION OF VACANT AND ABANDONED BUILDINGS, STRUCTURES, DWELLINGS AND LOTS IN COTTAGE CITY CAUSES AN ADVERSE BUDGETARY IMPACT ON THE TOWN, DEGRADES THE QUALITY OF LIFE, ENCOURAGES URBAN DECAY AND NEGLECT AND DIVERTS RESOURCES THAT COULD BE USED FOR OTHER MUNICIPAL PURPOSES IN ORDER TO CONTINUALLY MONITOR, ABATE, RESPOND TO COMPLAINTS, AND INVESTIGATE VIOLATIONS AND COMBAT THE DIRECT AND INCIDENTAL ADVERSE EFFECTS OF SUCH PROPERTIES OR STRUCTURES.

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B. Definitions. For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

VACANT BUILDING OR STRUCTURE - A building or structure where no person or persons actually currently conduct a business, or reside or live in any part of the building or structure as the legal or equitable owner or tenant-occupant, or owner-occupant, or tenant on a permanent, nontransient basis. WHEN DETERMINING WHETHER THERE IS A VACANCY, THE FOLLOWING MAY BE CONSIDERED:

1. ELECTRICAL, GAS, OR WATER METER EITHER NOT RUNNING OR SHOWING LOW USAGE;
2. ACCUMULATED MAIL;
3. NEIGHBOR COMPLAINTS, POLICE CALLS FOR SERVICE, INSPECTIONS AND CODE VIOLATIONS;
4. LACK OF SERVICEABLE FURNITURE OBSERVABLE;
5. OPEN OR UNSECURED ACCESSIBILITY;
6. DEFERRED MAINTENANCE, INCLUDING BUT NOT LIMITED TO LOOSE OR FALLING GUTTERS, SEVERE PAINT CHIPPING, OR OVERGROWN GRASS;
7. THE BUILDING IS BOARDED UP WITH OR WITHOUT A PERMIT;
8. INABILITY TO CONTACT THE OWNER, LOCAL AGENT OR CUSTODIAN;
9. VACANT PROPERTY REGISTRATION; OR
10. ANY OTHER REASONABLE BASIS.

VACANT DEVELOPED PROPERTY - MEANS A LOT OR PARCEL OF LAND THAT HAS A VACANT BUILDING.

Chapter 13B Assessments and Taxation

13B-1. Classification of property subject to municipal taxation.

Effective for the tax year beginning [~~July 1, 2017~~] JULY 1, 2023, and for each tax year thereafter unless altered by subsequent enactment of the Cottage City Commission, the classifications of property subject to municipal taxation, with respect to those properties, businesses or utilities located within the municipal boundaries of the Town of Cottage City, shall be as follows:

Property Classifications	*Fiscal Year 2024 Rates/\$100
Commercial real property	\$0.7088
Noncommercial real property	\$0.5166

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Business personal property	\$1.35
Public utility property	\$0.00
VACANT DEVELOPED PROPERTY	\$1.25
PERSONAL PROPERTY	\$1.35
PUBLIC UTILITY PROPERTY	\$0.00

(*NOTE: These rates [were] MAY HAVE BEEN established by previous legislation and are indicated herein [for informational purposes only] SUBJECT TO CHANGE BY FUTURE ENACTED BUDGET OR TAX LEVY ORDINANCES. Prior to ENACTMENT OF this chapter, which [shall apply beginning] BEGAN in Fiscal Year 2018 (July 1, 2017), all real property [has] HAD been taxed at the same rate as one class without distinction as to [commercial or noncommercial] THE CLASS OF real property. ALL RATES ARE SHOWN PER \$100 OF ASSESSMENT; THE STATE UTILITY TAX RATE IS \$0.2800 WHILE TOWN'S AND COUNTY'S IS CURRENTLY \$0.0000.)

Section 13B-2. **Determination of classification.**

A. Real property that is lawfully used or leased substantially for residential dwelling purposes shall be classified as noncommercial real property. ~~[All other real property shall be classified as commercial real property.]~~ ALL OTHER REAL PROPERTY SHALL BE CLASSIFIED AS COMMERCIAL REAL PROPERTY, VACANT DEVELOPED (REAL) PROPERTY, BUSINESS PERSONAL PROPERTY, PUBLIC UTILITY PROPERTY OR AS OTHERWISE DEFINED BY STATE LAW. Property that is exempt from taxation shall remain exempt regardless of classification by the Town.

13B-5. **VACANT DEVELOPED PROPERTY TAX; EXEMPTIONS**

- A. THE DEFINITIONS PROVIDED IN SECTION 5-12 OF THIS CODE SHALL LIKEWISE APPLY TO THIS SECTION.
- B. THE MUNICIPAL TAX RATE FOR VACANT DEVELOPED PROPERTY SHALL BE THE AMOUNT ESTABLISHED BY THE ORDINANCE SETTING THE TAX RATE FOR THAT FISCAL YEAR ON ASSESSMENTS OF PROPERTY SUBJECT TO MUNICIPAL PROPERTY TAX.
- C. A LOT OR PARCEL SHALL BE SUBJECT TO THE VACANT DEVELOPED PROPERTY TAX RATE IF IT HAS A BUILDING THAT IS REGISTERED OR DESIGNATED BY THE TOWN MANAGER AS A VACANT BUILDING IN ACCORDANCE WITH SECTION 5-12 OF THIS CODE.

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- D. FOR MIXED-USE COMMERCIAL AND RESIDENTIAL PROPERTIES WITH A VACANT COMMERCIAL PORTION, THE VACANT DEVELOPED PROPERTY TAX RATES SHALL APPLY ONLY TO THE ASSESSED VALUE OF THE IMPROVED AREA CONTAINING THE VACANT COMMERCIAL PORTION, WHICH SHALL BE DETERMINED BY MULTIPLYING THE TOTAL ASSESSED VALUE OF THE IMPROVEMENTS BY THE PERCENTAGE OF THE IMPROVED AREA CONSISTING OF THE VACANT COMMERCIAL PORTION.
- E. THE VACANT DEVELOPED PROPERTY TAX RATES SHALL NOT APPLY TO A LOT OR PARCEL WITH A VACANT BUILDING IF THE PROPERTY ALSO HAS AN OCCUPIED BUILDING THAT HAS AN ABOVE GRADE AREA EQUAL TO OR GREATER THAN THAT OF A VACANT BUILDING.
- F. VACANT DEVELOPED PROPERTY SHALL NOT BE SUBJECT TO THE VACANT DEVELOPED PROPERTY TAX RATE WHEN IT IS UNDER ACTIVE CONSTRUCTION OR UNDERGOING ACTIVE REHABILITATION, RENOVATION OR REPAIR AND THERE IS A VALID BUILDING PERMIT TO MAKE THE BUILDING FIT FOR OCCUPANCY. THE EXEMPTION FROM THE VACANT DEVELOPED PROPERTY TAX RATE UNDER THIS PARAGRAPH SHALL NOT EXCEED A TOTAL OF TWO YEARS WHILE THE PROPERTY REMAINS UNDER THE OWNERSHIP OF ONE PERSON, OR RELATED PERSONS.
- G. THE TOWN MANAGER SHALL TRANSMIT TO THE PRINCE GEORGE'S COUNTY TAX ASSESSOR A LIST OF THE PROPERTY SUBJECT TO THE VACANT DEVELOPED PROPERTY TAX BY MAY 1ST OF EACH YEAR, AND THE VACANT DEVELOPED PROPERTY TAX RATE WILL BE LEVIED UPON THE PROPERTIES THE FOLLOWING FISCAL YEAR.
- H. WHEN A PROPERTY BECOMES OCCUPIED OR EXEMPT FROM THE VACANT DEVELOPED PROPERTY TAX RATE PURSUANT TO SUBSECTION F, THE OWNER SHALL NOTIFY THE TOWN ADMINISTRATOR OF THE MATTER AS MAY BE PRESCRIBED BY REGULATION APPROVED BY FORMAL RESOLUTION OR ORDINANCE. IF THE REQUEST FOR TERMINATION OF THE VACANT DEVELOPED PROPERTY TAX RATE IS APPROVED, DETERMINATION SHALL BE EFFECTIVE THE FOLLOWING FISCAL YEAR.
- I. IF THE VACANT DEVELOPED PROPERTY TAX RATE IS PAID ON THE PROPERTY BECAUSE OF AN ERROR ON THE PART OF THE TOWN, THE MUNICIPAL PROPERTY TAX PAID IN EXCESS OF THE TAXES DUE UNDER THE REGULAR MUNICIPAL RATE SHALL BE REFUNDED. REFUNDS PURSUANT TO THIS SUBSECTION SHALL NOT EXCEED THE VALUE OF THE EXCESS PAYMENT FOR THE PERIOD OF ONE YEAR.

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- J. THE TOWN MANAGER WILL, UPON REQUEST, PROVIDE WRITTEN NOTICE TO THE LENDERS FOR PROSPECTIVE PURCHASERS OF VACANT, DEVELOPED PROPERTY, THAT PROPERTY WILL NOT BE SUBJECT TO THE VACANT. DEVELOP PROPERTY TAX RATE COMMENCING THE FOLLOWING FISCAL YEAR IF THE PROPERTY IS OCCUPIED OR SATISFIES THE REQUIREMENTS OF SUBSECTION E.
- K. EXEMPTIONS. A RESIDENTIAL PROPERTY THAT BECOMES VACANT AS A RESULT OF THE DEATH OF AN OWNER OF THE PROPERTY WHO RESIDED AT THAT PROPERTY, FOR WHOM THE PROPERTY WAS THEIR DOMICILE AT THE TIME OF THEIR DEATH, SHALL NOT CONSTITUTE A VACANT DEVELOPED PROPERTY FOR A PERIOD OF TWO YEARS AFTER THE DATE OF DEATH. TO QUALIFY FOR THIS DEATH EXEMPTION, A REPRESENTATIVE OF THE ESTATE OF THE DECEASED MUST PROVIDE THE TOWN MANAGER WITH A COPY OF THE DEATH CERTIFICATE AND PROOF THAT ON THE DATE OF DEATH, THE DECEASED RESIDED AT THE PROPERTY, OR THE PROPERTY WAS THEIR DOMICILE. DOMICILE MEANS THE PLACE WHERE A PERSON HAS HIS OR HER TRUE FIXED PERMANENT HOME, HABITATION AND PRINCIPAL ESTABLISHMENT WITHOUT ANY PRESENT INTENTION OF REMOVING THERE FROM AND TO WHICH PLACE HE OR SHE HAS THE INTENT TO RETURN WHEN ABSENT.
- L. TEMPORARY EXEMPTIONS FOR ACCIDENTAL DAMAGE. IN OCCUPIED RESIDENTIAL PROPERTY THAT BECOMES UNINHABITABLE AS A RESULT OF A FIRE OR FLOOD, UNLESS INTENTIONALLY CAUSED BY THE OWNER OR HIS OR HER AGENT OR NATURAL DEATH, DISASTER SHALL NOT CONSTITUTE A VACANT DEVELOPED PROPERTY FOR A PERIOD OF TWO YEARS AFTER THE INCIDENT THAT CAUSED THE PROPERTY TO BECOME UNINHABITABLE. TO QUALIFY FOR THIS EXEMPTION, THE OWNER MUST PROVIDE SATISFACTORY PROOF TO THE TOWN MANAGER THAT THE PROPERTY IS UNINHABITABLE AS A RESULT OF A FIRE, FLOOD, OR NATURAL DISASTER AND THE DATE OF THE FIRE, FLOOD, OR NATURAL DISASTER OCCURRED. EXAMPLES OF RECORDS THAT SATISFACTORILY PROVES ACCIDENTAL DAMAGE INCLUDES, BUT IS NOT LIMITED TO, POLICE AND FIRE REPORTS, INSURANCE COMPANY CORRESPONDENCE, AND CLAIMS DOCUMENTATION, NEWS AND WEATHER REPORTS, PHOTOGRAPHS, VIDEOS AND CODE ENFORCEMENT INSPECTION RECORDS.

SECTION 2.

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AND BE IT FURTHER ORDAINED AND ENACTED, by the Cottage City Commission that said body may set the fines, penalties, and fees associated with violating this Ordinance from time to time by resolution.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Cottage City Commission that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Cottage City Commission that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Cottage City Commission.

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.

AND BE IT FURTHER ORDAINED AND ENACTED, that Section 1 of this Ordinance shall be codified and included within the Code of the Town of Cottage City.

AND BE IT FURTHER ORDAINED AND ENACTED, that a fair summary of this ordinance shall be published at least once prior to the date of passage in a newspaper or newspapers having general circulation in the city, and 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.

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

HAVING BEEN INTRODUCED AND HAVING BEEN READ as a regular ordinance and passed by a yea and nay vote of the Cottage City Commission with the affirmative votes of a majority of the whole number of members elected to the legislative body as indicated below at a Public Meeting of the Town of Cottage City held on this 9 day of November 2022, at approximately 7 o'clock p.m., in the Town Hall in Cottage City, Maryland.

I HEREBY CERTIFY that the above Ordinance No. 2022-06 was passed by the required yea and nay votes of the Cottage City Commission on the 9 day of November 2022.

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ATTEST:

TOWN OF COTTAGE CITY, MARYLAND

Carol Richardson, Town Manager

By: Wanda Wheatley
Wanda Wheatley, Commissioner-Chair

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Manager of the Town of Cottage City, Maryland, that on the 9 day of November 2022 with 5 Aye votes and 0 Nay votes, the aforesaid Ordinance 2022-06 passed.

Carol Richardson
Carol Richardson, Town Manager

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