

EMERGENCY ORDINANCE 2022-01

AN EMERGENCY ORDINANCE OF THE COTTAGE CITY COMMISSION TO ENACT AN ORDINANCE AMENDING CHAPTER 13B OF THE TOWN CODE BY ADOPTING A GRANT ADMINISTRATION ARTICLE HAVING CERTAIN RULES AND CONDITIONS FOR THE MANAGEMENT AND DISTRIBUTION OF CERTAIN GRANT PROCEEDS BY THE TOWN WITHIN THE TOWN CODE OF ORDINANCES

WHEREAS, under the funding administered by the State of Maryland pursuant to the American Rescue Plan Act (the Act), there is a Coronavirus State and Local Fiscal Recovery Funds (CLFRF) program, where every level of government will receive funding, regardless of size; and

WHEREAS, pursuant to Section 603(c) of the Act, fiscal recovery funds may be used to enable local governments to respond to the COVID-19 public health emergency, provide premium pay to essential workers, supplement revenue reductions incurred during the pandemic, and to make necessary investments in water, sewer, and broadband infrastructure; and

WHEREAS, Cottage City is expected to receive \$1.1 million in federal ARPA funding which must be obligated by December 31, 2024 and said funds must be expended by December 31, 2026; and

WHEREAS, the Town of Cottage City has received the first tranche of funds in July and the second installment of the Town's disbursement in August 2022, and has made plans for the use of the ARPA funds as part of the Town's planning and development process; and

WHEREAS, the U.S. Office of Management and Budget has published guidance in the Federal Register entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) as codified in Title 2, Part 200 of the Code of Federal Regulations (CFR) and recipients are further subject to the Federal Funding Accountability and Transparency Act (FFATA) reporting requirements; and

WHEREAS, the Town Charter, §18(28) (Grants-in-aid) authorizes the Cottage City Commission to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this charter as it may deem necessary for the good government of the Town to accept gifts and grants of federal or of State funds from the federal or State governments or any agency thereof, and to expend the funds for any lawful purpose, agreeably to the conditions under which the gifts or grants were made; and

WHEREAS, Sections 38, 39, and 40 of the Charter of Cottage City requires the Cottage City Commission to adopt an annual budget containing anticipated revenues and appropriations for public purposes, and Section 39 of said Charter requires that the budget shall be prepared and adopted in the form of an ordinance; and

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WHEREAS, the Cottage City Commission approved a budget for the fiscal year beginning July 1, 2021, and ending June 30, 2022, containing anticipated revenues and proposed expenditures by Ordinance 2021-02 enacted on or about June 9, 2021; and

WHEREAS, pursuant to Md. Code Ann., LG Article, Section 5-205(b)(4), a municipality may spend money for a purpose different from the purpose for which the money was appropriated or spend money not appropriated at the time of the annual levy if approved by a two-thirds vote of all the individuals elected to the legislative body; and

WHEREAS, the Cottage City Commission in December of 2021 amended the FY22 Budget to reflect ARPA Grant Revenue and provide for a corresponding increase of Total Expenditures by adding ARPA Fund Grant Expenditures; and

WHEREAS, the Cottage City Commission deems it appropriate to adopt this ordinance as an emergency ordinance so that it can take effect immediately to allow timely and efficient administration of ARPA and other grants received by the Town for the benefit or redistribution to its residents and business in order to mitigate the adverse effects of the COVID-19 pandemic.

NOW, THEREFORE, BE IT ORDAINED BY THE COTTAGE CITY COMMISSION, in special or regular session assembled, 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 13B (Assessments and Taxation) thereof shall henceforth read as follows:

CHAPTER 13B

Assessments, [and] Taxation, and FINANCE

Article 1. Classification OF REAL PROPERTY

ARTICLE 2. GRANT ADMINISTRATION

13B-5. MINIMUM GRANT ADMINISTRATION STANDARDS AND REQUIREMENTS.

THE FOLLOWING MINIMUM GRANT ADMINISTRATION STANDARDS, CONDITIONS AND REQUIREMENTS SHALL BE INCORPORATED INTO ALL TOWN GRANT AGREEMENTS OR RECIPIENT APPLICATIONS FOR DISBURSEMENTS UNLESS THE COTTAGE CITY COMMISSION IN THE APPROPRIATING OR AUTHORIZING ORDINANCE, OR BY SEPARATE WRITTEN RESOLUTION WAIVES SUCH STANDARD, CONDITION, OR REQUIREMENT:

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1. GOALS AND OBJECTIVES. EACH GRANT RECIPIENT OR SUBRECIPIENT RECEIVING FUNDS FROM THE TOWN SHALL PROVIDE THE TOWN WITH A BRIEF STATEMENT OR COMPLETED FORM OR APPLICATION PROVIDED BY THE TOWN OF ANY ATTAINABLE AND MEASURABLE GOALS, OBJECTIVES, AND/OR OUTCOMES WHICH ADDRESS THE PURPOSES OF THE GRANT AWARD.

2. USE OF GRANT FUNDS. GRANT FUNDS MAY NOT BE USED FOR EXPENSES OR OBLIGATIONS INCURRED OUTSIDE THE EFFECTIVE DATES OF THE GRANT AWARD. RECIPIENTS OF GRANT PROCEEDS OR FUNDS DERIVED FROM OUTSIDE GRANTS SHALL COMPLY WITH THE APPLICABLE GRANT AGREEMENT, U.S. GOVERNMENT'S OFFICE OF MANAGEMENT AND BUDGET (OMB) RULES AND REGULATIONS, STATE LAW, THIS ARTICLE AND ANY TOWN RULES OR REGULATIONS, WHERE APPLICABLE. THE TOWN MAY REQUEST REPORTS FROM TIME TO TIME OF THE USE AND DISPOSITION OF ANY GRANT FUNDS DISBURSED BY THE TOWN TO A RECIPIENT.

3. RULEMAKING. THE COTTAGE CITY COMMISSION IS HEREBY AUTHORIZED TO PROMULGATE SUPPLEMENTAL RULES AND REGULATIONS FROM TIME TO TIME BY WRITTEN RESOLUTION FOR THE ADMINISTRATION, MANAGEMENT, USE AND ELIGIBILITY REQUIREMENTS FOR ANY GRANTS OR GRANT PROCEEDS ADMINISTERED BY THE TOWN CONSISTENT WITH THIS ARTICLE.

4. AUDITS. DURING NORMAL BUSINESS HOURS, A COMMERCIAL OR BUSINESS GRANT RECIPIENT SHALL PERMIT THE TOWN OR ITS REPRESENTATIVE TO REVIEW, MONITOR, AUDIT, AND EVALUATE ALL FINANCIAL AND PROGRAMMATIC RECORDS OF THE GRANT RECIPIENT TO DETERMINE COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE GRANT AWARD.

5. RECORDS MANAGEMENT AND RETENTION. A TOWN GRANT RECIPIENT OR SUBRECIPIENT SHALL RETAIN GRANT AND SUBCONTRACT RECORDS, INCLUDING RECORDS OF THE RECEIPT AND DISPOSITION OF GRANT FUNDS, FOR A PERIOD OF THREE YEARS FROM THE DATE OF DISBURSEMENT BY THE TOWN OF THE GRANT RECIPIENT'S FINAL GRANT DISBURSEMENT. THE GRANT RECIPIENT SHALL CONTINUE TO RETAIN RECORDS AS LONG AS ANY AUDIT IS IN PROGRESS OR AS LONG AS AUDIT FINDINGS, LITIGATION, OR CLAIMS INVOLVING THE RECORDS ARE PENDING. AFTER RESOLUTION, THE GRANT RECIPIENT SHALL RETAIN REQUIRED RECORDS FOR AN ADDITIONAL THREE YEARS. IF FOR ANY REASON THE GRANT RECIPIENT CEASES OPERATIONS BEFORE THE END OF ANY RECORD RETENTION PERIOD, ALL FINANCIAL AND PROGRAM RECORDS SHALL BE DELIVERED TO THE TOWN.

6. DUTIES UPON TERMINATION/EXPIRATION. IF THE GRANT RECIPIENT RECEIVES

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PAYMENTS EXCEEDING THE AMOUNT TO WHICH IT IS ENTITLED, IT SHALL REMIT THE EXCESS TO THE TOWN WITHIN 30 DAYS OF RECEIVING WRITTEN NOTICE OF TERMINATION OR OVER PAYMENT. THE GRANT RECIPIENT SHALL NOT BE ENTITLED TO FINAL COMPENSATION UNTIL ALL FINAL FINANCIAL REPORTS ARE PROVIDED.

13B-6. EXCEPTIONS.

THE MINIMUM GRANT STANDARDS, CONDITIONS AND REQUIREMENTS SET FORTH IN THIS ARTICLE SHALL NOT APPLY TO THE EXTENT THAT AN INTERGOVERNMENTAL GRANTOR'S FUNDING SOURCE REQUIREMENTS OR GRANT AGREEMENTS CONFLICT WITH ANY TOWN STANDARD, CONDITION, OR REQUIREMENT FOUND IN THIS ARTICLE OR ANY REGULATION OR RULE PROMULGATED PURSUANT TO THIS ARTICLE.

13B-7. COMMISSION NOTIFICATIONS AND APPROVALS; GRANT MANAGER.

A. THE TOWN'S ADMINISTRATION OR ITS AGENCIES SHALL NOTIFY THE COTTAGE CITY COMMISSION BY MEMORANDUM WHEN A GRANT IS BEING PURSUED AND PROVIDE A PROJECT DESCRIPTION AND AMOUNT. ALL GRANT AGREEMENTS FOR FUNDS TO BE RECEIVED FROM EXTERNAL INTERGOVERNMENTAL OR OTHER SOURCES SHALL BE AUTHORIZED BY THE COTTAGE CITY COMMISSION.

B. A PROGRAM MANAGER, OTHER THAN THE TOWN MANAGER WHO SHALL BE THE DEFAULT PROGRAM MANAGER, FOR ALL GRANTS SHALL BE NAMED AND APPROVED BY THE COTTAGE CITY COMMISSION AND SHALL SERVE AS THE SUBJECT MATTER EXPERT FOR ANY GRANT-FUNDED PROJECT OR PROGRAM, AND, THUS, SHALL BE THE PRIMARY PERSON IN THE TOWN RESPONSIBLE FOR GRANT PROGRAMMATIC ACTIVITIES AS AUTHORIZED BY THE GRANT AGREEMENT. THE PROGRAM MANAGER SHALL HAVE THE RESPONSIBILITY TO OVERSEE ADMINISTRATIVE AND FINANCIAL ACTIVITIES OF THE GRANT AWARD AND SHALL STAY IN COMPLIANCE OF THE TERMS AND CONDITIONS OF ANY APPLICABLE GRANT AWARD.

13B-8. VIOLATIONS AND PENALTIES

ANY VIOLATION OF THIS ARTICLE OR ANY RULE OR REGULATION AS PROMULGATED UNDER THE AUTHORITY GRANTED HEREIN SHALL BE DEEMED A MUNICIPAL INFRACTION AND SHALL, IN ADDITION TO ANY COST OR FEE, BE PUNISHED BY A FINE OF \$500. THE COTTAGE CITY COMMISSION SHALL BE

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AUTHORIZED TO SEEK ANY OTHER RELIEF AVAILABLE BY LAW OR EQUITY TO ENFORCE THE PROVISIONS OF THIS ARTICLE.

AND BE IT FURTHER ORDAINED that this Emergency Ordinance shall take effect immediately, and that a fair summary shall be published at least once within ten days after the date of passage in a newspaper or newspapers having general circulation in Cottage City.

INTRODUCED AND ADOPTED by the Cottage City Commission at a Town meeting on January 21, 2022, at which copies of this ordinance were made available to the public for inspection.

Attest:

Anthony Ayers
Anthony Ayers, Acting Town Manager

Sam M. Young
COMMISSIONER, Ward 1

Arts Moon Anarche
COMMISSIONER, Ward 2

Wanda W. H. H. H.
COMMISSIONER, Ward 3 (Chair)

Demetrius Given
COMMISSIONER, Ward 4

Sam M. A. Miller
COMMISSIONER, At Large

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Manager of the Town of Cottage City, Maryland, that on the 21st day of January 2021 with 4 Aye votes and 0 Nay votes, the aforesaid Emergency Ordinance 2022-01 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 and that this ordinance will be provided to General Code for codification.

Anthony Ayers
Anthony Ayers, Acting Town Manager

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