

**THE COMMISSIONERS OF
THE TOWN OF COTTAGE CITY
CHARTER AMENDMENT RESOLUTION NUMBER 2020-01**

A CHARTER AMENDMENT RESOLUTION OF THE COTTAGE CITY COMMISSION TO AMEND SECTION 33 (REGISTRATION, NOMINATIONS AND ELECTIONS; REGULATION AND CONTROL BY COMMISSION) OF THE CHARTER OF THE TOWN OF COTTAGE CITY TO AUTHORIZE THE COTTAGE CITY COMMISSION TO PROVIDE BY ORDINANCE FOR THE SUSPENSION OF CERTAIN TIME CONSTRAINTS AND THE MODIFICATION OF CERTAIN PROVISIONS OF THE CHARTER RELATING TO THE CONDUCT OF REGISTRATIONS, NOMINATIONS AND ELECTIONS, DURING A DECLARED LOCAL OR STATE EMERGENCY AND UPON PROVIDING CERTAIN NOTICE; AND GENERALLY RELATING TO REGISTRATION, NOMINATIONS AND TOWN ELECTIONS.

INTRODUCED BY: Commissioner-Chairman Young

WHEREAS, pursuant to Section 6 of the Charter of the Town of Cottage City (the “Charter”), the corporate powers of the Town shall be vested in, and shall be exercised by, and said Town shall be governed by, a commission to be known as the Cottage City Commission; and

WHEREAS, the Town of Cottage City, Maryland pursuant to its Charter is scheduled to hold a Municipal Election on the 4th day of May 2020; and

WHEREAS, to initiate a charter change pursuant § 4-304 of the LG Article of the Maryland Code, the elected governing body of a municipality must typically first pass a resolution to effect a charter change and must post an exact copy of the charter amendment resolution at the town hall or some other public place for at least 40 days after passage of the resolution, and the law further requires the municipality to publish a “fair summary” of the proposed amendment not less than four times at weekly intervals in a newspaper of general circulation in the community, and unless an approved charter amendment is petitioned to

referendum, an amendment becomes effective 50 days after a municipal governing body passes a charter amendment resolution; and

WHEREAS, the General Assembly of Maryland passed HB 615 during the 2018 session effective July 1, 2018 requiring the legislative body of a municipality to hold a public hearing and give at least 21-days' notice by posting the notice in a public place before adopting a resolution initiated by the legislative body that proposes an amendment to the municipal charter; and

WHEREAS, the Governor of Maryland, as of March 5, 2020, has declared a state of emergency and catastrophic health emergency for the epidemic known as COVID-19, and the Governor has postponed the upcoming State primary election and taken other extraordinary measures; and

WHEREAS, the Governor's Order dated March 12, 2020 states that "[t]he head of each unit of State or local government may, upon a finding that the suspension [of legal time requirements] will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation that it administers...[and] that the unit head shall provide reasonable public notice of any such suspension..."; and

WHEREAS, the Governor's Office of Counsel and the Town Attorney has opined that in order to properly suspend or modify the conduct of election requirements found in a municipal charter, that a charter amendment resolution should be required along with an appropriate notice and/or proclamation issued pursuant to a civil emergency powers ordinance that suspends the

state statutory procedures (Subtitle 3 of Title 4 of the LG Art.) for adopting a charter amendment resolution, in part, because the Governor can order the suspension of deadlines and timelines in state statutes; but, in the opinion of the Governor's counsel, the Governor cannot suspend the Constitution of Maryland, which expressly requires that a charter amendment resolution be adopted pursuant to Article XI-E (Municipal Home Rule) in order to abrogate the elections procedures and requirements (e.g., the method of voting such as solely by mail, drop box or some other means contrary to the current Charter); and

WHEREAS, Section 33 of the Charter empowers the Cottage City Commission to provide by ordinance in every respect not covered by the provisions of the Town Charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud; and

WHEREAS, the Cottage City Commission finds that during the current State and locally declared emergency it is in the best interest of the Town to immediately amend the Town Charter to provide the Cottage City Commission with authority to cause the modification of certain election procedures and timelines, and that that the Governor's Emergency Order dated March 12, 2020 allowing for the abrogation of legal and regulatory timeframes found in State statutes for adopting this charter amendment resolution should be invoked to change and modify the procedural requirements found in the relevant State statutes to allow this charter amendment resolution to take effect immediately or soon after its passage.

Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE COTTAGE CITY COMMISSION on this 1 day of April 2020 that Section 33 (Regulation and control by

commission) of the Charter of the Town of Cottage City, Maryland shall be amended and adopted to read as follows:

* * *

Registration, Nominations and Elections

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Section 33. Regulation and control by commission.

(A) The commission has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

(B) THE COMMISSION MAY BY ORDINANCE, DURING A DECLARED LOCAL (MUNICIPAL) OR STATE EMERGENCY, UPON A FINDING THAT THE SUSPENSION, MODIFICATION OR CHANGE WILL NOT ENDANGER THE PUBLIC HEALTH, WELFARE OR SAFETY AND AFTER REASONABLE NOTIFICATION TO THE GOVERNOR AND THE PUBLIC:

(1) SUSPEND THE EFFECT OF ANY LEGAL OR PROCEDURAL DEADLINE, DUE DATE, TIME OF DEFAULT, TIME EXPIRATION, PERIOD OF TIME, OR OTHER TIME OF AN ACT OR EVENT DESCRIBED WITHIN THIS CHARTER REGARDING THE CONDUCT OF REGISTRATION, NOMINATION, AND TOWN ELECTIONS; AND

(2) MODIFY OR CHANGE THE PROVISIONS OF THIS CHARTER FOR THE SAFE AND EFFICIENT CONDUCT OF REGISTRATION, NOMINATION, AND TOWN ELECTIONS AND FOR THE PREVENTION OF FRAUD IN CONNECTION THEREWITH, AND FOR A RECOUNT OF BALLOTS IN CASE OF DOUBT OR FRAUD.

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Section 2. **BE IT FURTHER RESOLVED** that, unless a proclamation, notice or resolution issued subsequently states otherwise, this Charter Amendment Resolution is adopted on the aforementioned date, and that upon a hearing and adoption by the Cottage City Commission, a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Office

for a period of at least forty (40) days following the date of its adoption. Additionally, unless a proclamation, notice or resolution states otherwise, a fair summary of the proposed Amendment shall be published in a newspaper of general circulation in the Town of Cottage City not less than four (4) times at weekly intervals within the forty (40) days following the adoption this Charter Amendment Resolution, and the Clerk to the Commission shall further endeavor, as much as practical, to publish a summary or a complete copy of this resolution by as many methods of communication as are reasonably possible of the following: posting on the Town’s website, newsletter, the Cable TV channel, or any appropriate list serve.

Section 3. **BE IT FURTHER RESOLVED** that unless an emergency proclamation or other authorized resolution or notice (See Attachment A, below) suspending, modifying or changing the applicable timelines and procedural constraints states otherwise, the Amendment initiated in this Charter Amendment Resolution shall take effect and shall become and be considered the Charter of the Town of Cottage City, upon the fiftieth day after being so ordained or passed unless on or before the fortieth day after being so adopted and passed a referendum petition meeting the requirements of State law shall be presented to the Cottage City Commission or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

Section 4. **BE IT FURTHER RESOLVED** that when the Charter Amendment hereby initiated becomes effective, as provided herein, or following a referendum election, the Town Clerk shall send separately, by certified mail, return receipt requested, to the Department of Legislative Services within 10 days after the charter resolution becomes effective, the following information concerning the Charter Amendment: (i) the complete text of this Charter Amendment Resolution; (ii) the date of the referendum election, if any held with respect thereto; (iii) the number of votes cast

for and against this Charter Amendment Resolution by the Cottage City Commission or a referendum election; and (iv) the effective date of the Charter Amendment.

Section 5. BE IT FURTHER RESOLVED that the Town Clerk/Town Manager of the Town of Cottage City or the Assistant Clerk/Office Manager is specifically instructed to carry out the provisions of Sections 2, 3, and 4 hereof, as evidence of compliance herewith, the Town Clerk shall cause to be affixed to this Charter Amendment Resolution and to the Minutes of the Commission Meeting in which it is adopted (i) an appropriate certificate of publication of the newspaper in which the summary of the Charter Amendment Resolution shall have been published and (ii) return receipts of the mailing referred to in Section 4, and shall further complete and execute the Certificate of Effect attached hereto.

Section 6. BE IT FURTHER RESOLVED that the Commissioner-Chairman shall be authorized to sign this Charter Amendment Resolution on behalf of the Cottage City Commission.

PASSED by the Cottage City Commission at a regular meeting held on the 1st day of April 2020.

ATTEST:

TOWN OF COTTAGE CITY, MARYLAND


Consuella Barbour, Town Manager


Ann Marshall Young, Commissioner-Chairman