

**COTTAGE CITY COMMISSION
TOWN OF COTTAGE CITY**

ORDINANCE NO. 2021 - 03

Introduced By: The Cottage City Commission

AN ORDINANCE OF THE TOWN OF COTTAGE CITY FOR THE PURPOSE OF ESTABLISHING AND AUTHORIZING THE USE OF SPEED MONITORING SYSTEMS IN THE TOWN OF COTTAGE CITY BY ADOPTING PROVISIONS GOVERNING SPEED MONITORING SYSTEMS, IN ORDER TO AUTHORIZE THE IMPLEMENTATION OF SUCH SYSTEMS IN DESIGNATED SCHOOL ZONES OR RESIDENTIAL DISTRICTS, TO DETECT SPEED LIMIT VIOLATIONS USING VEHICLE SENSORS THAT PRODUCE RECORDED IMAGES OF PASSING VEHICLES, AND TO SPECIFY THE CONDITIONS UNDER WHICH A SPEED MONITORING SYSTEM SHALL BE USED, BY ESTABLISHING THE PENALTY FOR A SPEED LIMIT VIOLATION RECORDED BY SAID SYSTEM, AND THE MEANS FOR PROCESSING CITATIONS FOR SPEED LIMIT VIOLATIONS RECORDED BY A SPEED MONITORING SYSTEM; BY DEFINING SCHOOL ZONES AND RESIDENTIAL DISTRICTS; BY REQUIRING THE CALIBRATION AND SELF-TESTING OF SYSTEMS, AND THE USE AND PLACEMENT OF SYSTEMS IN SCHOOL ZONES OR RESIDENTIAL DISTRICTS; AND BY FURTHER REQUIRING THE COTTAGE CITY COMMISSION TO DESIGNATE AN EMPLOYEE OR OFFICIAL TO REVIEW SPEED MONITORING SYSTEM CITATIONS AND ADDRESS QUESTIONS OR CONCERNS FROM THE PUBLIC, AND DESIGNATE A PROGRAM ADMINISTRATOR TO OVERSEE THE CONTRACT WITH A SPEED MONITORING SYSTEM CONTRACTOR; AND BY PROHIBITING CERTAIN FUTURE PAYMENTS ON A PER-TICKET BASIS TO SPECIFIED CONTRACTORS AND REQUIRING A CONTRACT TO PROVIDE FOR THE PAYMENT OF LIQUIDATED DAMAGES BY THE CONTRACTOR IF MORE THAN 5% OF VIOLATIONS ISSUED ARE ERRONEOUS AS DEFINED BY LAW; BY AUTHORIZING THE TOWN TO USE AND ENFORCE CITATIONS ISSUED BY A SPEED MONITORING SYSTEM OR A RED-LIGHT ENFORCEMENT SYSTEM AND THE PENALTIES RELATED THERETO; MANDATING A CERTAIN PERIOD OF TIME DURING WHICH VIOLATIONS MAY BE ENFORCED USING A SPEED ENFORCEMENT SYSTEM AND RED-LIGHT ENFORCEMENT SYSTEM; BY REQUIRING THE TOWN TO COMPLY WITH CERTAIN STATE LAW FOR USE OF THESE SYSTEMS; BY DEFINING CERTAIN TERMS; BY REQUIRING CERTAIN REPORTS TO BE FILED; AND GENERALLY RELATING TO THE REGULATION AND CONTROL OF VEHICLES AND TRAFFIC AND THE USE OF TECHNOLOGY TO REGULATE TRAFFIC AND IMPROVE PUBLIC SAFETY IN THE TOWN

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WHEREAS, on May 30, 2021, the General Assembly of Maryland enacted HB 619 (Ch. 447 of the 2021 Laws of Md.) authorizing, in addition to designated school zones, the placement of speed monitoring systems (also known as speed cameras) in Prince George’s County on highways in residential districts with a maximum posted speed limit of 35 miles per hour to be effective on October 1, 2021; and

WHEREAS, the Cottage City Commission finds that driving in excess of posted speed limits, and failing to stop at red lights is a major cause of accidents, injuries and death; and

WHEREAS, traditional enforcement of red light violations, and posted speed limits in the vicinity of schools and school areas as well as residential areas requires that law enforcement enter traffic and stop a motorist in order to cite that motorist as a violator; however, traffic volume and safety considerations limits the number of violators apprehended to a fraction of those in violation of posted speed limits or traffic control signal, and risks injury to the law enforcement officers, pedestrians and public, especially in the vicinity of schools and residences; and

WHEREAS, traffic studies indicate that the presence of speed cameras and red-light cameras has contributed to as much as an 80% - 90% decrease in the number of drivers running red lights, and exceeding the speed limit by 12 miles per hour or more in the vicinity of schools; and

WHEREAS, these automated speed monitoring system and red-light enforcement programs are hereby created or ratified by the Cottage City Commission with a goal to increase safety for the motoring public as well as for residents, school children, visitors and parents with the use of automated speed enforcement; and

WHEREAS, Title 21 of the Transportation Article of the Maryland Annotated Code (hereinafter, the “Code”), authorizes and empowers the Cottage City Commission to implement and use a speed monitoring system, and red-light photo enforcement systems that are consistent with the requirements of Title 21, Subtitles 2 and 8 of the Transportation Article of the Code on a public highway; and

WHEREAS, The Chief of Police has advised that Speed Monitoring Systems will advance public safety and welfare; and Red-Light Enforcement systems strategically placed in designated areas will advance the safety of the motoring public; and

WHEREAS, upon due consideration of the comments of the public and staff and in furtherance of the public health, safety and welfare, the Cottage City Commission finds that it is in the best interest of the public health, safety and welfare of the citizens of the Town to adopt and establish school and residential zones or districts and authorize the use of speed monitoring

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systems within school zones and residential districts, along with an existing red-light photo enforcement program; and

WHEREAS, the Cottage City Commission requires that appropriate signage shall be erected in accordance with the manual for and the specifications for a uniform system of traffic control devices adopted by the State Highway Administration before activating an unmanned stationary speed monitoring system, if not already in place, at each School Zone or Residential District and publish the location of the unmanned stationary speed monitoring system on the Town of Cottage City Website, and in a newspaper of record, as required by law; and

WHEREAS, as prescribed by law, reasonable notice of the use of Speed Monitoring Systems shall be provided through advertisement in a newspaper of general circulation in Cottage City and the Town's website at least fifteen (30) days prior to the activation of an unmanned speed monitoring system in a School Zone or Residential District for the first time or a red-light photo enforcement program.

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 9 (Traffic and Vehicles) thereof shall henceforth read as follows:

**CHAPTER 9
Traffic and Vehicles**

SECTION 9-13: SPEED MONITORING SYSTEMS

(A) IN THIS SECTION AND SECTIONS 9-14 THROUGH 9-18, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(1) OWNER — THE REGISTERED OWNER OF A MOTOR VEHICLE OR A LESSEE OF A MOTOR VEHICLE UNDER A LEASE OF SIX MONTHS OR MORE, EXCEPT THAT "OWNER" DOES NOT INCLUDE:

(A) A MOTOR VEHICLE RENTAL OR LEASING COMPANY; OR

(B) A HOLDER OF A SPECIAL REGISTRATION PLATE ISSUED UNDER MD. CODE ANN., TRANSP. ART., TITLE 13, SUBTITLE 9, PART III.

(2) DEPARTMENT — THE COTTAGE CITY POLICE DEPARTMENT.

(3) ERRONEOUS VIOLATION — A POTENTIAL VIOLATION SUBMITTED BY A SPEED MONITORING SYSTEM CONTRACTOR AS DEFINED IN THE

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TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, § 21-809(A)(3).

(4) PROGRAM ADMINISTRATOR — A TOWN EMPLOYEE OR REPRESENTATIVE DESIGNATED BY THE COTTAGE CITY COMMISSION TO OVERSEE THE CONTRACT WITH THE SPEED MONITORING SYSTEM CONTRACTOR.

(5) RESIDENTIAL DISTRICT—AN AREA THAT:

(A) IS NOT A BUSINESS DISTRICT; AND

(B) ADJOINS AND INCLUDES A HIGHWAY WHERE THE PROPERTY ALONG THE HIGHWAY, FOR A DISTANCE OF AT LEAST 300 FEET, IS IMPROVED MAINLY WITH RESIDENCES OR RESIDENCES AND BUILDINGS USED FOR BUSINESS; AND

(C) HAS A SPEED LIMIT ESTABLISHED USING GENERALLY ACCEPTED TRAFFIC ENGINEERING PRACTICES.

(6) SCHOOL ZONE — A DESIGNATED ROADWAY SEGMENT WITH A POSTED SPEED LIMIT OF AT LEAST 20 MILES PER HOUR AND LOCATED WITHIN UP TO A HALF-MILE RADIUS OF A SCHOOL FOR ANY OF GRADES KINDERGARTEN THROUGH GRADE 12 WHERE SCHOOL-RELATED ACTIVITY OCCURS AS FURTHER DEFINED IN THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, § 21-809(A)(7).

(7) RECORDED IMAGE — AN IMAGE RECORDED BY A SPEED-MONITORING SYSTEM ON A PHOTOGRAPH, A MICROPHTOGRAPH, AN ELECTRONIC IMAGE, A VIDEOTAPE, OR ANY OTHER MEDIUM, AND SHOWING:

(A) THE REAR OF A MOTOR VEHICLE;

(B) AT LEAST TWO TIME-STAMPED IMAGES OF THE MOTOR VEHICLE THAT INCLUDE THE SAME STATIONARY OBJECT NEAR THE MOTOR VEHICLE; AND

(C) ON AT LEAST ONE IMAGE OR PORTION OF TAPE, A CLEAR AND LEGIBLE IDENTIFICATION OF THE ENTIRE REGISTRATION PLATE NUMBER OF THE MOTOR VEHICLE.

(8) SPEED-MONITORING SYSTEM — A DEVICE WITH ONE OR MORE MOTOR VEHICLE SENSORS PRODUCING RECORDED IMAGES OF MOTOR VEHICLES TRAVELING AT SPEEDS AT LEAST 12 MILES PER HOUR ABOVE THE POSTED SPEED LIMIT.

(9) SPEED-MONITORING SYSTEM OPERATOR — A REPRESENTATIVE OF THE DEPARTMENT OR A DESIGNATED PERSON THAT OPERATES A SPEED MONITORING SYSTEM.

(B) NOTICE.

(1) THE COTTAGE CITY COMMISSION, BY ORDINANCE OR RESOLUTION, FOLLOWING REASONABLE NOTICE TO THE PUBLIC AND A PUBLIC HEARING, MAY ESTABLISH A SCHOOL ZONE OR RESIDENTIAL DISTRICT ON ANY ROAD UNDER THE TOWN'S JURISDICTION OR WITH PERMISSION OF THE COUNTY OR STATE HIGHWAY ADMINISTRATION ON ANY COUNTY OR STATE ROAD WITHIN 1/2 MILE

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OF A SCHOOL OR IN A RESIDENTIAL DISTRICT AND, FOR ANY SCHOOL ZONE OR RESIDENTIAL DISTRICT SO ESTABLISHED, SHALL SET A MAXIMUM SPEED LIMIT, AS PERMITTED BY LAW, PROVIDED THAT THE DESIGNATION OF SUCH SCHOOL ZONE AND THE MAXIMUM SPEED LIMIT SET FOR SUCH ZONE SHALL NOT BECOME EFFECTIVE UNTIL THE TOWN INSTALLS SIGNS DESIGNATING THE SCHOOL ZONE OR RESIDENTIAL DISTRICT AND INDICATING THE MAXIMUM SPEED LIMIT APPLICABLE IN THE SCHOOL ZONE LOCATED IN THE TOWN OF COTTAGE CITY.

(2) THE TOWN MAY INSTALL OR ERECT TRAFFIC CONTROL DEVICES IN THE DESIGNATED SCHOOL ZONE OR RESIDENTIAL DISTRICT IN ADDITION TO THE SIGNS REQUIRED BY SUBSECTION (B)(1) AND (3), INCLUDING TIMED FLASHING WARNING LIGHTS AND INCLUDING A SPEED MONITORING SYSTEM AS DEFINED IN SUBSECTION (A) OF THIS SECTION.

(3) IF THE TOWN MOVES OR PLACES A MOBILE OR STATIONARY SPEED MONITORING SYSTEM TO OR AT A LOCATION WHERE A SPEED MONITORING SYSTEM HAD NOT PREVIOUSLY BEEN MOVED OR PLACED, THE TOWN MAY NOT ISSUE A CITATION FOR A VIOLATION RECORDED BY THAT SPEED MONITORING SYSTEM:

(A) UNTIL SIGNAGE IS INSTALLED IN ACCORDANCE WITH SUBSECTION (C); AND

(B) FOR AT LEAST THE FIRST 15 CALENDAR DAYS AFTER THE SIGNAGE IS INSTALLED.

(C) BEFORE ACTIVATING A SPEED-MONITORING SYSTEM, THE TOWN MANAGER OR HER DESIGNEE SHALL:

(1) PUBLISH NOTICE OF THE LOCATION OF THE SPEED-MONITORING SYSTEM ON THE TOWN'S WEBSITE AND IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TOWN; AND

(2) ENSURE THAT EACH SIGN THAT DESIGNATES A SCHOOL ZONE OR RESIDENTIAL DISTRICT IS PROXIMATE TO A SIGN THAT INDICATES THAT SPEED-MONITORING SYSTEMS ARE IN USE IN THE SCHOOL ZONE OR RESIDENTIAL DISTRICT, AND IS IN ACCORDANCE WITH THE MANUAL FOR AND THE SPECIFICATIONS FOR A UNIFORM SYSTEM OF TRAFFIC CONTROL DEVICES ADOPTED BY THE STATE HIGHWAY ADMINISTRATION.

(D) A SPEED-MONITORING SYSTEM IN A SCHOOL ZONE MAY OPERATE ONLY MONDAY THROUGH FRIDAY BETWEEN 6:00 A.M. AND 8:00 P.M.

(E) THE DESIGNATED OMBUDSMAN.

(1) THE COTTAGE CITY COMMISSION SHALL DESIGNATE AN OFFICIAL OR EMPLOYEE TO INVESTIGATE AND RESPOND TO QUESTIONS OR CONCERNS ABOUT THE SPEED MONITORING SYSTEM PROGRAM.

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(A) THE LOCAL DESIGNEE OR OMBUDSMAN SHALL REVIEW A CITATION GENERATED BY A SPEED MONITORING SYSTEM IF THE PERSON WHO RECEIVED THE CITATION REQUESTS REVIEW BEFORE THE DEADLINE FOR CONTESTING LIABILITY UNDER THIS SECTION.

(B) IF SAID DESIGNEE DETERMINES THAT THE CITATION IS AN ERRONEOUS VIOLATION, THE DESIGNEE SHALL VOID THE CITATION.

(C) IF SAID DESIGNEE DETERMINES THAT A PERSON DID NOT RECEIVE NOTICE OF A CITATION ISSUED UNDER THIS SECTION DUE TO AN ADMINISTRATIVE ERROR, THE DESIGNEE MAY RESEND THE CITATION IN ACCORDANCE WITH SUBSECTION (I) OF THIS SECTION OR VOID THE CITATION.

(D) SHOULD SAID DESIGNEE TAKE ANY ACTION DESCRIBED UNDER THIS SUBSECTION, HE OR SHE SHALL NOTIFY THE SPEED MONITORING SYSTEM CONTRACTOR AND/OR THE MOTOR VEHICLE ADMINISTRATION OF THE ACTION FOR THE PURPOSE OF RESCINDING ANY ADMINISTRATIVE PENALTIES OR FEES THAT MAY HAVE BEEN IMPOSED UNDER THIS SECTION.

(2) THE DESIGNEE MAY NOT BE EMPLOYED BY THE SPEED MONITORING SYSTEM CONTRACTOR OR HAVE BEEN INVOLVED IN ANY REVIEW OF A SPEED MONITORING SYSTEM CITATION, OTHER THAN A REVIEW OF A CITATION UNDER THIS SUBSECTION (N) OF THIS SECTION.

(3) ON RECEIPT OF A WRITTEN QUESTION OR CONCERN FROM A PERSON, THE LOCAL DESIGNEE SHALL PROVIDE A WRITTEN ANSWER OR RESPONSE TO THE PERSON WITHIN A REASONABLE TIME.

(4) THE DESIGNEE OR THE TOWN CLERK SHALL MAKE ANY WRITTEN QUESTIONS OR CONCERNS RECEIVED UNDER THIS SUBSECTION, AND ANY SUBSEQUENT WRITTEN ANSWERS OR RESPONSES, AVAILABLE FOR PUBLIC INSPECTION.

(F) A SPEED-MONITORING SYSTEM OPERATOR SHALL:

(1) COMPLETE TRAINING BY A MANUFACTURER OF SPEED-MONITORING SYSTEMS IN THE PROCEDURES FOR SETTING UP AND OPERATING THE SPEED-MONITORING SYSTEM.

(2) FILL OUT AND SIGN A DAILY SET-UP LOG FOR A SPEED-MONITORING SYSTEM THAT STATES THAT THE SPEED-MONITORING SYSTEM OPERATOR SUCCESSFULLY PERFORMED OR REVIEWED AND EVALUATED THE MANUFACTURER-SPECIFIED SELF-TEST OF THE SPEED-MONITORING SYSTEM PRIOR TO PRODUCING A RECORDED IMAGE.

(3) THE DAILY SET-UP LOG REQUIRED BY SUBSECTION (F)(2) OF THIS SECTION SHALL BE KEPT ON FILE AND SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(G) A SPEED-MONITORING SYSTEM MANUFACTURER SHALL ISSUE A

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SIGNED CERTIFICATE TO THE SPEED-MONITORING SYSTEM OPERATOR ON COMPLETION OF THE TRAINING, WHICH CERTIFICATE SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(H) CALIBRATION.

(1) A SPEED-MONITORING SYSTEM SHALL UNDERGO AN ANNUAL CALIBRATION CHECK PERFORMED BY AN INDEPENDENT CALIBRATION LABORATORY THAT IS:

(A) SELECTED BY THE TOWN; AND

(B) UNAFFILIATED WITH THE MANUFACTURER OF THE SPEED MONITORING SYSTEM.

(2) THE INDEPENDENT CALIBRATION LABORATORY SHALL ISSUE A SIGNED CERTIFICATE OF CALIBRATION AFTER THE ANNUAL CALIBRATION CHECK, WHICH SHALL BE KEPT ON FILE AND SHALL BE ADMITTED AS EVIDENCE IN ANY COURT PROCEEDING FOR A VIOLATION OF THIS SECTION.

(I) IF THE COTTAGE CITY COMMISSION AUTHORIZES OR CONTINUES A PROGRAM OF SPEED MONITORING SYSTEMS UNDER THIS SECTION:

(1) THE COTTAGE CITY COMMISSION SHALL DESIGNATE A PROGRAM ADMINISTRATOR WHO MAY NOT BE AN EMPLOYEE OR A REPRESENTATIVE OF THE SPEED MONITORING SYSTEM CONTRACTOR; AND

(2) SHALL ENSURE THE CONTRACT WITH THE SPEED MONITORING SYSTEM CONTRACTOR INCLUDES THE FOLLOWING PROVISIONS:

(A) FOR POTENTIAL VIOLATIONS SUBMITTED BY A CONTRACTOR FOR REVIEW BY THE DEPARTMENT, IF MORE THAN 5% OF THE VIOLATIONS IN A CALENDAR YEAR ARE ERRONEOUS VIOLATIONS, THEN THE CONTRACTOR SHALL BE SUBJECT TO LIQUIDATED DAMAGES FOR EACH ERRONEOUS VIOLATION EQUAL TO AT LEAST 50% OF THE FINE AMOUNT FOR THE ERRONEOUS VIOLATION, PLUS ANY REIMBURSEMENTS PAID BY THE TOWN; AND

(B) UNDER THE TERMS OF SAID ALTERED CONTRACT, THE TOWN MAY CANCEL A CONTRACT WITH A CONTRACTOR IF THE CONTRACTOR VIOLATES THE CONTRACT BY SUBMITTING ERRONEOUS VIOLATIONS TO THE DEPARTMENT THAT EXCEED A THRESHOLD SPECIFIED IN THE CONTRACT OR VIOLATES THE LAW IN IMPLEMENTING THE CONTRACT.

(3) THE DESIGNATED PROGRAM ADMINISTRATOR SHALL PARTICIPATE IN A TRAINING PROGRAM CONCERNING THE OVERSIGHT AND ADMINISTRATION OF A LOCAL SPEED MONITORING PROGRAM ADMINISTERED BY THE MARYLAND POLICE TRAINING COMMISSION AS SOON AS PRACTICAL, AND SUBSEQUENTLY AT LEAST ONCE EVERY TWO YEARS.

(J) UNLESS A DRIVER OF A MOTOR VEHICLE RECEIVED A CITATION FROM A

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POLICE OFFICER AT THE TIME OF A VIOLATION, THE OWNER OR, IN ACCORDANCE WITH SUBSECTION (M)(5)(A) OF THIS SECTION, THE DRIVER OF A MOTOR VEHICLE IS SUBJECT TO A CIVIL PENALTY IF THE MOTOR VEHICLE IS RECORDED BY A SPEED MONITORING SYSTEM WHILE BEING OPERATED AT LEAST 12 MILES PER HOUR ABOVE THE POSTED SPEED LIMIT.

(K) CITATIONS.

(1) SUBJECT TO THE PROVISIONS OF SUBSECTION K(2) THROUGH (4) OF THIS SECTION, THE DEPARTMENT SHALL MAIL OR CAUSE TO BE MAILED TO AN OWNER LIABLE UNDER SUBSECTION (J) OF THIS SECTION A CITATION, UPON A FORM TO BE PRESCRIBED BY THE DISTRICT COURT OF MARYLAND, THAT SHALL INCLUDE THE INFORMATION REQUIRED BY OF MD. CODE. ANN., TRANSP. ART., § 21-809.

(2) THE DEPARTMENT MAY MAIL A WARNING NOTICE INSTEAD OF A CITATION TO THE OWNER LIABLE UNDER SUBSECTION (J) OF THIS SECTION AND, FOR A PERIOD OF 30 DAYS AFTER THE TOWN INSTALLS THE FIRST SPEED-MONITORING SYSTEM, THE DEPARTMENT SHALL MAIL ONLY A WARNING NOTICE AND MAY NOT ISSUE A CITATION.

(3) EXCEPT AS PROVIDED IN SUBSECTION (M)(5) OF THIS SECTION, THE TOWN MAY NOT MAIL A CITATION TO A PERSON WHO IS NOT AN OWNER.

(4) EXCEPT AS PROVIDED IN SUBSECTION (E) (OMSBUDSMAN) AND SUBSECTION (M)(5) OF THIS SECTION, A CITATION ISSUED UNDER THIS SECTION SHALL BE MAILED NO LATER THAN TWO WEEKS AFTER THE ALLEGED VIOLATION IF THE VEHICLE IS REGISTERED IN THIS STATE, AND 30 DAYS AFTER THE ALLEGED VIOLATION IF THE VEHICLE IS REGISTERED IN ANOTHER STATE.

(5) A PERSON WHO RECEIVES A CITATION UNDER SUBSECTION (K)(1) OF THIS SECTION MAY:

(A) PAY THE CIVIL PENALTY, IN ACCORDANCE WITH INSTRUCTIONS ON THE CITATION, DIRECTLY TO THE TOWN; OR

(B) ELECT TO STAND TRIAL IN THE DISTRICT COURT FOR THE ALLEGED VIOLATION.

(L) ADJUDICATION.

(1) A CERTIFICATE ALLEGING THAT THE VIOLATION OF SUBTITLE 8 (SPEED RESTRICTIONS) OF TITLE 21 (VEHICLES LAWS - RULES OF THE ROAD) OCCURRED AND THE REQUIREMENTS UNDER THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, § 21-809(B) HAVE BEEN SATISFIED, SWORN TO, OR AFFIRMED BY A DULY AUTHORIZED LAW ENFORCEMENT OFFICER EMPLOYED BY OR UNDER CONTRACT WITH THE TOWN BASED ON INSPECTION OF RECORDED IMAGES PRODUCED BY A SPEED MONITORING SYSTEM, SHALL BE EVIDENCE OF THE FACTS CONTAINED IN THE CERTIFICATE AND SHALL BE ADMISSIBLE IN A PROCEEDING ALLEGING A VIOLATION UNDER SAID SUBTITLE WITHOUT THE

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PRESENCE OR TESTIMONY OF THE SPEED MONITORING SYSTEM OPERATOR.

(2) IF A PERSON WHO RECEIVED A CITATION UNDER SUBSECTION (K) OF THIS SECTION DESIRES THE SPEED MONITORING SYSTEM OPERATOR TO BE PRESENT AND TESTIFY AT TRIAL, THE PERSON SHALL NOTIFY THE COURT AND THE TOWN IN WRITING NO LATER THAN 20 DAYS BEFORE TRIAL.

(3) ADJUDICATION OF LIABILITY SHALL BE BASED ON A PREPONDERANCE OF EVIDENCE.

(M) DEFENSES.

(1) PURSUANT TO § 21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE DISTRICT COURT MAY CONSIDER IN DEFENSE OF A VIOLATION:

(A) SUBJECT TO SUBSECTION (M)(2) OF THIS SECTION, THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES OF THE MOTOR VEHICLE WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION;

(B) SUBJECT TO SUBSECTION (M)(3) OF THIS SECTION, EVIDENCE THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

(C) ANY OTHER ISSUES AND EVIDENCE THAT THE DISTRICT COURT DEEMS PERTINENT.

(2) TO DEMONSTRATE THAT THE MOTOR VEHICLE OR THE REGISTRATION PLATES WERE STOLEN BEFORE THE VIOLATION OCCURRED AND WERE NOT UNDER THE CONTROL OR POSSESSION OF THE OWNER AT THE TIME OF THE VIOLATION, THE OWNER SHALL SUBMIT PROOF THAT A POLICE REPORT REGARDING THE STOLEN MOTOR VEHICLE OR REGISTRATION PLATES WAS FILED IN A TIMELY MANNER.

(3) TO SATISFY THE EVIDENTIARY BURDEN UNDER SUBSECTION (M)(1)(B) OF THIS SECTION, THE PERSON NAMED IN THE CITATION SHALL PROVIDE TO THE DISTRICT COURT, SUBMITTED THROUGH THE DEPARTMENT, A LETTER, SWORN TO OR AFFIRMED BY THE PERSON AND MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, THAT:

(A) STATES THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION; AND

(B) INCLUDES ANY OTHER CORROBORATING EVIDENCE.

(4) SHOULD THE POLICE DEPARTMENT HAVE CAUSE OR REASON TO BELIEVE THAT THE OPERATOR WAS AN EMPLOYEE OR AGENT ACTING WITHIN THE OWNER'S SCOPE OF EMPLOYMENT OR AGENCY, AND WAS ACTING IN FURTHERANCE OF THE OWNER'S INTERESTS AT THE TIME OF THE VIOLATION, THE DEPARTMENT MAY FILE A MOTION USING THE COURT'S FORM (I.E., FORM DC 2) OPPOSING THE SWORN REQUEST LETTER AND STATING THE REASONS WHY

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SUCH REQUEST SHOULD BE DENIED OR OTHERWISE STATING WHY LIABILITY SHOULD BE JOINTLY SHARED BY THE OPERATOR AND THE OWNER. SAID MOTION SHALL BE REVIEWED BY THE TOWN ATTORNEY, MAY BE SUPPORTED BY AFFIDAVIT AND INCLUDE ANY OTHER CORROBORATING EVIDENCE.

(5) CASES OF CITED PERSON NOT OPERATING VEHICLE.

(A) IF THE DISTRICT COURT FINDS THAT THE PERSON NAMED IN THE CITATION WAS NOT OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION OR RECEIVES EVIDENCE UNDER SUBSECTION (M)(3) OF THIS SECTION IDENTIFYING THE PERSON DRIVING THE VEHICLE AT THE TIME OF THE VIOLATION THEREBY TRANSFERRING LIABILITY TO THE OPERATOR, THE CLERK OF THE COURT SHALL PROVIDE TO THE DEPARTMENT A COPY OF ANY EVIDENCE SUBSTANTIATING WHO WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(B) ON RECEIPT OF SUBSTANTIATING EVIDENCE FROM THE DISTRICT COURT UNDER SUBSECTION (M)(1) OF THIS SECTION PURSUANT TO THE STATE LAW THE DEPARTMENT MAY ISSUE A CITATION AS PROVIDED IN SUBSECTION (K) OF THIS SECTION TO THE PERSON WHO THE EVIDENCE INDICATES WAS OPERATING THE VEHICLE AT THE TIME OF THE VIOLATION.

(C) A CITATION ISSUED UNDER SUBSECTION (M)(5)(B) OF THIS SECTION SHALL BE MAILED NO LATER THAN TWO WEEKS AFTER RECEIPT OF THE EVIDENCE FROM THE DISTRICT COURT.

(N) PURSUANT TO § 21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, IF A PERSON LIABLE UNDER THIS SECTION DOES NOT PAY THE CIVIL PENALTY OR CONTEST THE VIOLATION, THE MARYLAND MOTOR VEHICLE ADMINISTRATION:

(1) MAY REFUSE TO REGISTER OR REREGISTER THE MOTOR VEHICLE CITED FOR THE VIOLATION; OR

(2) MAY SUSPEND THE REGISTRATION OF THE MOTOR VEHICLE CITED FOR THE VIOLATION.

(O) PURSUANT TO § 21-809 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND, A VIOLATION FOR WHICH A CIVIL PENALTY IS IMPOSED PURSUANT TO STATE LAW UNDER THIS SECTION:

(1) IS NOT A MOVING VIOLATION FOR THE PURPOSE OF ASSESSING POINTS UNDER § 16-402 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(2) MAY NOT BE RECORDED BY THE MOTOR VEHICLE ADMINISTRATION ON THE DRIVING RECORD OF THE OWNER OR DRIVER OF THE VEHICLE;

(3) MAY BE TREATED AS A PARKING VIOLATION FOR PURPOSES OF § 26-305 OF THE TRANSPORTATION ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

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AND

(4) MAY NOT BE CONSIDERED IN THE PROVISION OF MOTOR VEHICLE INSURANCE COVERAGE.

(P) PURSUANT TO STATE LAW AND THIS SECTION, THE DEPARTMENT OR ITS DESIGNEE SHALL ADMINISTER AND PROCESS CIVIL CITATIONS ISSUED UNDER THIS SECTION AND STATE LAW IN COORDINATION WITH THE DISTRICT COURT.

(Q) AN OWNER FOR WHOM THE MARYLAND MOTOR VEHICLE ADMINISTRATION REFUSES TO REGISTER, OR RE-REGISTER A VEHICLE, OR WHO RECEIVES A SUSPENDED REGISTRATION PURSUANT TO SUBSECTION (N) OF THIS SECTION BUT WHO SUBSEQUENTLY PAYS THE REQUIRED FINES, FEES AND PENALTIES SHALL FURTHER REMIT TO THE TOWN A RELEASE FEE OF \$35 IN ADDITION TO ANY RELEASE FEES THAT MAY BE COLLECTED BY THE MARYLAND MOTOR VEHICLE ADMINISTRATION PRIOR TO RELEASE OF SAID RESTRICTION. THE RELEASE FEE ESTABLISHED BY THIS SUBSECTION MAY BE MODIFIED FROM TIME TO TIME BY RESOLUTION OF THE BOARD OF COMMISSIONERS.

(R) BY OCTOBER 31 OF EACH YEAR, THE TOWN MANAGER WITH THE ASSISTANCE OF THE TREASURER AND THE CHIEF OF POLICE SHALL SUBMIT TO THE MARYLAND POLICE TRAINING COMMISSION A REPORT FOR THE PREVIOUS FISCAL YEAR ON THE TOWN'S SPEED MONITORING SYSTEM PROGRAM INCLUDING INFORMATION REQUIRED IN ACCORDANCE WITH STATE LAW.

9-14: TRAFFIC CONTROL SIGNAL MONITORING SYSTEMS

(A) THE USE OF TRAFFIC CONTROL SIGNAL MONITORING SYSTEMS ALSO KNOWN AS RED LIGHT CAMERAS FOR TRAFFIC CONTROL ARE AUTHORIZED AT LOCATIONS WITHIN THE TOWN AS DETERMINED BY THE CHIEF OF POLICE SUBJECT TO APPROVAL BY THE COTTAGE CITY COMMISSION. THE RED-LIGHT CAMERA LOCATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE TRAFFIC SIGNALS AT THE INTERSECTIONS INDICATED IN SECTION 9-18 OF THIS ORDINANCE.

(B) THE TOWN MAY ENTER INTO APPROPRIATE AGREEMENTS WITH DULY QUALIFIED VENDORS FOR THE FURNISHING OF LABOR, EQUIPMENT AND MAINTENANCE RELATED TO THE INSTALLATION AND OPERATION OF A RED-LIGHT CAMERA ENFORCEMENT PROGRAM. THE TOWN MANAGER IS AUTHORIZED TO NEGOTIATE WITH SUCH DULY QUALIFIED VENDORS; PROVIDED, HOWEVER,

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[Brackets] : Indicate matter deleted from existing law
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THAT NO AGREEMENT FOR SUCH LABOR, EQUIPMENT OR MAINTENANCE SHALL BE EFFECTIVE UNTIL FIRST HAVING BEEN DULY APPROVED BY THE COTTAGE CITY COMMISSION.

(C) THE TOWN'S RED-LIGHT CAMERA ENFORCEMENT PROGRAM SHALL BE CONDUCTED IN COMPLIANCE WITH ALL APPLICABLE PROVISIONS OF TRANSPORTATION ARTICLE, § 21-202.1, OF THE MARYLAND ANNOTATED CODE, AS AMENDED FROM TIME TO TIME, AND ALL OTHER APPLICABLE LAWS.

(D) UNLESS THE DRIVER OF A MOTOR VEHICLE RECORDED BY A RED LIGHT CAMERA IN VIOLATION OF TRANSPORTATION ARTICLE, § 21-202(H), OF THE MARYLAND ANNOTATED CODE, AS AMENDED FROM TIME TO TIME, RECEIVED A CITATION FROM A POLICE OFFICER AT THE TIME OF THE VIOLATION, THE OWNER OR, IN ACCORDANCE WITH TRANSPORTATION ARTICLE, § 21-202.1(G)(5), OF THE MARYLAND ANNOTATED CODE, AS AMENDED FROM TIME TO TIME, SHALL BE GUILTY OF A CIVIL INFRACTION AND SUBJECT TO A CIVIL PENALTY. THE TOWN MAY ALSO COLLECT THOSE ADMINISTRATIVE FEES SET FORTH IN THIS ORDINANCE RELATED TO THE IMPLEMENTATION OF A RED-LIGHT CAMERA ENFORCEMENT PROGRAM WITHIN THE TOWN.

SECTION 9-15: SPEED MONITORING SYSTEM PENALTIES; USE OF REVENUE

(A) A CIVIL PENALTY IN THE AMOUNT OF \$40 PER VIOLATION IS HEREBY ESTABLISHED FOR SPEED MONITORING SYSTEM VIOLATIONS, SUBJECT TO AN ADDITIONAL LATE FEE IF NOT PAID WITHIN THIRTY (30) DAYS AFTER THE ISSUANCE OF THE CITATION. THE PENALTY SHALL BE PAID TO THE TOWN OF COTTAGE CITY, AND ALL UNPAID VIOLATIONS SHALL BE FORWARDED FOR COLLECTIONS ACTIONS, EXCEPT THAT, IN A CONTESTED CASE BEFORE THE DISTRICT COURT OF MARYLAND, THE PENALTY SHALL BE COLLECTED BY THE DISTRICT COURT IN ACCORDANCE WITH §7-302(A) OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE OF THE MARYLAND ANNOTATED CODE AND §21-809 OF THE TRANSPORTATION ARTICLE OF THE MARYLAND ANNOTATED CODE AND DISTRIBUTED IN ACCORDANCE WITH §12-118 OF THE TRANSPORTATION ARTICLE OF THE MARYLAND ANNOTATED CODE, AS ANY OF THE FOREGOING MAY BE AMENDED FROM TIME TO TIME.

(B) REVENUE RECEIVED BY THE TOWN FROM SPEED CAMERA PROGRAM SHALL FIRST BE USED TO RECOVER THE COSTS OF IMPLEMENTING AND

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ADMINISTERING THE PROGRAM. ANY REMAINING BALANCE SHALL BE USED FOR PUBLIC SAFETY PURPOSES AS PERMITTED BY STATE LAW AND AS SET FORTH IN THE ANNUAL BUDGET ADOPTED BY THE COTTAGE CITY COMMISSION.

SECTION 9-16: RED-LIGHT ENFORCEMENT PENALTIES

A CIVIL PENALTY IN THE AMOUNT OF \$75 PER VIOLATION IS HEREBY ESTABLISHED FOR TRAFFIC CONTROL SIGNAL MONITORING SYSTEM OR RED-LIGHT CAMERA VIOLATIONS. THE PENALTY SHALL BE PAID TO THE TOWN OF COTTAGE CITY, AND ALL UNPAID VIOLATIONS SHALL BE FORWARDED FOR COLLECTIONS ACTIONS, EXCEPT THAT, IN A CONTESTED CASE BEFORE THE DISTRICT COURT OF MARYLAND, THE PENALTY SHALL BE COLLECTED BY THE DISTRICT COURT IN ACCORDANCE WITH §7-302(A) OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE OF THE MARYLAND ANNOTATED CODE AND §21-809 OF THE TRANSPORTATION ARTICLE OF THE MARYLAND ANNOTATED CODE AND DISTRIBUTED IN ACCORDANCE WITH §12-118 OF THE TRANSPORTATION ARTICLE OF THE MARYLAND ANNOTATED CODE, AS ANY OF THE FOREGOING MAY BE AMENDED FROM TIME TO TIME.

SECTION 9-17: ADMINISTRATIVE FEES; REGISTRATION FLAGGING; REFERRAL FOR COLLECTION

(A) LATE FEE. IN ADDITION TO ANY FEES AS ESTABLISHED ELSEWHERE IN THIS ORDINANCE, THE COTTAGE CITY COMMISSION HEREBY IMPOSES AND MAY COLLECT ADMINISTRATIVE FEES RELATED TO THE IMPLEMENTATION OF A PROGRAM OF SPEED ENFORCEMENT USING SPEED MONITORING SYSTEMS IN SCHOOL ZONES, OR RESIDENTIAL DISTRICTS, OR RED-LIGHT CAMERAS WITHIN THE TOWN OF COTTAGE CITY INCLUDING A LATE FEE OF \$40 WHICH SHALL BE ASSESSED FOR ANY FINES PAID MORE THAN 30 DAYS FROM THE DATE OF ISSUANCE OF A SPEED CAMERA OR RED-LIGHT CITATION.

(B) DEBT COLLECTION FEE. WHERE ANY FEES OR FINES ARE ASSESSED OR IMPOSED IN ACCORDANCE WITH THIS ORDINANCE, AND WHERE SUCH FEES OR FINES ARE UNPAID AND OUTSTANDING FOR 30 OR MORE DAYS, THE TOWN, IN ITS SOLE AND ABSOLUTE DISCRETION AND TO THE EXTENT PERMITTED BY LAW, MAY REFER SUCH DEBT TO A COLLECTION AGENCY OR AN ATTORNEY FOR COLLECTION. FOR ALL ACCOUNTS REFERRED TO A COLLECTION AGENCY OR AN ATTORNEY FOR COLLECTION, SUCH ACCOUNTS SHALL BE SUBJECT TO A COLLECTION FEE NOT TO EXCEED TWO TIMES THE OUTSTANDING DEBT OR THE

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TOTAL SUM INDEBTED TO THE TOWN, WHICHEVER IS GREATER. THE TOWN MAY ALTERNATIVELY OR FURTHER ELECT TO FILE A CIVIL SUIT AGAINST THE DEBTOR TO RECOVER SUCH OUTSTANDING AND UNPAID FEES OR FINES.

(C) MUNICIPAL FLAGGING FEE. THE CHIEF OF POLICE OR HIS DESIGNEE SHALL, IN ACCORDANCE WITH THE PROCEDURES PRESCRIBED BY THE STATE MOTOR VEHICLE ADMINISTRATION AND STATE LAW, GIVE OR CAUSE TO BE GIVEN NOTICE TO THE ADMINISTRATION AND THE RESPECTIVE OWNERS OF ALL VEHICLES REGISTERED BY THE STATE AND THE SUBJECT OF ANY OUTSTANDING AND PAST DUE RED LIGHT OR SPEED-MONITORING SYSTEM VIOLATIONS OF THIS CHAPTER THEREBY REQUESTING THAT THE ADMINISTRATION REFUSE REGISTRATION OR TRANSFER OF REGISTRATION OF THE SUBJECT VEHICLE, UNTIL NOTIFIED BY THE TOWN THAT THE VIOLATION PENALTY HAS BEEN SATISFIED. IN SUCH CASES, THE CHIEF OF POLICE SHALL IMPOSE AN ADDITIONAL COST OR MUNICIPAL ADMINISTRATIVE FLAGGING FEE OF \$40 FOR EACH REGISTRATION OR TRANSFER TO BE WITHHELD, SUSPENDED OR DENIED, AND THE OWNER OF THE VEHICLE SHALL BE LIABLE OR FURTHER SUBJECT TO THE PAYMENT OF SUCH COSTS, AND ALL OTHER FINES, PENALTIES, FEES AND CHARGES THAT HAVE ACCRUED OR HAVE BEEN ASSESSED PURSUANT TO THIS CHAPTER BEFORE NOTICE IS GIVEN TO THE ADMINISTRATION THAT THE SUBJECT VIOLATION PENALTY HAS BEEN SATISFIED AND THE REGISTRATION IS TO BE RELEASED.

(D) RETURNED CHECK FEE. ANY PERSON WHO PAYS ANY PENALTY ASSESSED UNDER THIS CHAPTER SHALL FURTHER PAY A RETURNED CHECK FEE OF \$35 TO THE TOWN SHOULD THE CHECK BE RETURNED UNPAID FOR ANY REASON BY THE PAYOR'S BANK.

SECTION 9-18: DESIGNATION OF SCHOOL ZONES, RESIDENTIAL DISTRICTS AND RED-LIGHT CAMERA INTERSECTIONS

(A) THE COTTAGE CITY COMMISSION MAY DESIGNATE CERTAIN ROADWAYS TO BE DESIGNATED A SCHOOL ZONE FURTHER DEFINED AS A DESIGNATED ROADWAY SEGMENT OF UP TO A HALF-MILE RADIUS FROM OF A SCHOOL FOR ANY GRADES KINDERGARTEN THROUGH GRADE 12 WHERE SCHOOL-RELATED ACTIVITY OCCURS, INCLUDING TRAVEL BY STUDENTS TO OR FROM SCHOOL ON FOOT OR BY BICYCLE, OR THE DROPPING OFF OR PICKING UP OF STUDENTS BY SCHOOL BUSES OR OTHER VEHICLES ON ANY COUNTY, MUNICIPAL, OR STATE ROAD, AND FURTHER APPROVES AND AUTHORIZES THE USE OF MOBILE

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RED LIGHT CAMERA SYSTEMS PROVIDED FOR RED LIGHT CAMERA ENFORCEMENT AT SIGNALIZED INTERSECTIONS WITHIN THE MUNICIPALITY.

(B) THE INITIAL ROADWAYS DESIGNATED AS A RESIDENTIAL DISTRICT, AS DEFINED IN SECTION 9-13, IS AS FOLLOWS: (1) 3400 BLADENSBURG ROAD (RT. 1 ALT.) TO 4300 BLADENSBURG ROAD (Rt. 1 Alt.), AND (2) 3700 38TH AVENUE TO 3800 38TH AVENUE.

(C) THE INTERSECTION(S) CURRENTLY DESIGNATED FOR DEPLOYMENT OF TRAFFIC CONTROL SIGNAL MONITORING SYSTEM(S) ARE AS FOLLOWS: (1) 38TH AVENUE AND BLADENSBURG ROAD AND (2) 41ST AVENUE AND BLADENSBURG ROAD.

SECTION 2.

AND BE IT FURTHER ENACTED AND ORDAINED 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 or October 2, 2021, whichever is later, 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, whereby the entirety

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of the previously enacted and codified portion of Chapter 9 of the Town Code shall be restated and replaced in its entirety by the sections and provisions written hereinabove in Section 1.

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 ye 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 11 day of August 2021, at approximately 7 o'clock p.m., in the Town Hall in Cottage City, Maryland.

I HEREBY CERTIFY that the above Ordinance No. 2021-03 was passed by the required ye and nay votes of the Cottage City Commission on the 8th day of September 2021.

ATTEST:

TOWN OF COTTAGE CITY, MARYLAND



Consuella Barbour, Town Manager

By: 

Wanda Wheatley, Commissioner-Chair

CERTIFICATION

I, HEREBY CERTIFY, as the duly appointed Town Manager of the Town of Cottage City, Maryland, that on the 8th day of September 2021 with 4 Aye votes and 0 Nay votes, the aforesaid Ordinance 2021-03 passed.



Consuella Barbour, Town Manager

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