

ORDINANCE NO. O-04-2017

OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING CHAPTER IV, "TRAFFIC AND VEHICLES", BY AMENDING AND RE-ENACTING ARTICLE I, "GENERAL PROVISIONS", SECTION 4-102, "DEFINITIONS", SECTION 4-103, "TRAFFIC AND PARKING CONTROL DEVICES", SECTION 4-106, "OPERATION OF VEHICLES ON STREETS, SIDEWALKS, CURBS, AND GUTTERS", SECTION 4-107, "BICYCLES", SECTION 4-108, "ENFORCEMENT", ARTICLE II, "PARKING", SECTION 4-201, "GENERAL PARKING RESTRICTIONS" AND SECTION 4-208, "RESIDENTIAL PARKING AREA", WHILE ALSO DELETING SECTION 4-207, "PROFESSIONAL RESERVED PARKING", AND ARTICLE III, "TRAFFIC CONTROL" BY ADDING SECTION 4-305, "ENFORCEMENT" TO UPDATE THE CHAPTER AND MAKE PROVISION FOR SETTING PARKING FINES BY RESOLUTION, UPDATE VARIOUS DEFINITIONS TO BE CONSISTENT WITH THE STATE CODE, AUTHORIZE THE TOWN MANAGER TO MAKE CERTAIN DETERMINATIONS, TO CLARIFY ENFORCEMENT AND AUTHORIZE ADOPTION OF FINES BY RESOLUTION, TO DELETE THE SECTION WITH RESPECT TO PROFESSIONAL RESERVED PARKING, AND TO CLARIFY THAT THE COUNCIL MAY DESIGNATE PARKING PERMIT AREAS AND DELETE THAT DESIGNATION ON ITS OWN AUTHORITY, WITH CONFORMING CHANGES.

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Mayor and Council of the Town of Kensington (hereinafter, the "Town") have the power to adopt such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, pursuant to §25-102 of the Transportation Article, Annotated Code of Maryland, the Mayor and Council have the power to regulate or prohibit the stopping, standing, or parking of vehicles and to install traffic control devices; and

WHEREAS, the Council has determined that it is in the public interest and necessary for the protection of the public health, safety, and welfare to make provision for parking fines, update various definitions to be consistent with the State code, authorize the Town Manager to make certain

CAPS	: Indicate matter added to existing law.
[Brackets]	: Indicate matter deleted from law.
Asterisks * * *	: Indicate matter remaining unchanged in existing law but not set forth in Ordinance
CAPS	: Indicate matter added in amendment.
[Brackets]	: Indicate matter deleted in amendment.

determinations, to clarify enforcement and authorize adoption of fines by resolution, to delete the section with respect to professional reserved parking, to clarify that the Council may designate parking permit areas and delete that designation on its own authority .

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 1 “General Provisions”, Section 4-102, “Definitions” be repealed, re-enacted and amended to read as follows:

Section 4-102. Definitions – THE FOLLOWING DEFINITIONS APPLY IN THIS CHAPTER.

(a) “Abandoned vehicle” shall mean any vehicle that:

(1) Is inoperable and left unattended on public property for more than forty eight (48) hours.

(2) [~~Any vehicle that~~] has remained illegally on public property for more than forty-eight (48) hours.

(3) HAS REMAINED ON PRIVATE PROPERTY FOR MORE THAN 48 HOURS WITHOUT THE CONSENT OF THE OWNER OR PERSON IN CONTROL OF THE PROPERTY;

(4) HAS REMAINED ON PUBLIC PROPERTY FOR MORE THAN 48 HOURS AND:

(I) IS NOT DISPLAYING CURRENTLY VALID REGISTRATION PLATES; OR

(II) IS DISPLAYING REGISTRATION PLATES OF ANOTHER VEHICLE.

(b) [~~“Crosswalk” shall mean any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface or that portion of a roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections.]~~

"CROSSWALK" MEANS THAT PART OF A ROADWAY THAT IS:

(1) WITHIN THE PROLONGATION OR CONNECTION OF THE LATERAL LINES OF SIDEWALKS AT ANY PLACE WHERE 2 OR MORE ROADWAYS OF ANY TYPE MEET OR JOIN, MEASURED FROM THE CURBS OR, IN THE ABSENCE OF CURBS, FROM THE EDGES OF THE ROADWAY;

(2) WITHIN THE PROLONGATION OR CONNECTION OF THE LATERAL LINES OF A BICYCLE WAY WHERE A BICYCLE WAY AND A ROADWAY OF ANY TYPE MEET OR JOIN, MEASURED FROM THE CURBS OR, IN THE ABSENCE OF CURBS, FROM THE EDGES OF THE ROADWAY; OR

(3) DISTINCTLY INDICATED FOR PEDESTRIAN CROSSING BY LINES OR OTHER MARKINGS.

* * * *

(d) "Motor vehicle" means any vehicle which is self-propelled as defined by the Annotated Code of Maryland, Transportation Article, [Section] §11-135. This definition shall not include bicycles [~~or mopeds as defined by the Annotated Code of Maryland, Transportation Article Section 11-134.1~~].

(e) "Traffic control devices" [~~shall~~] meanS all signs, signals, markings and devices, not inconsistent with this Chapter, placed or erected by [~~authority of a public body or official having jurisdiction,~~] THE TOWN for the purpose of regulating, warning or guiding traffic.

(f) "Park" or "parking" means TO HALT A VEHICLE, [~~the standing of a vehicle, whether occupied or not, upon a roadway,~~] other than temporarily for the purpose of and while actually engaged in loading or unloading PROPERTY OR PASSENGERS or [~~in obedience to traffic regulations or traffic signs or signals~~] WHEN NECESSARY TO AVOID CONFLICT WITH OTHER TRAFFIC OR IN COMPLIANCE WITH THE DIRECTIONS OF A POLICE OFFICER OR A TRAFFIC CONTROL DEVICE.

* * * *

(o) "Vehicle" [~~shall~~] meanS any device in, on, or by which any individual or property is or might be transported or towed on a [~~street~~] ROADWAY AND INCLUDES A LOW SPEED VEHICLE AND AN OFF-HIGHWAY RECREATIONAL VEHICLE.

Section 2. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, "Traffic and Vehicles", Article 1 "General Provisions", Section 4-103, "Traffic and Parking Control Devices" be repealed, re-enacted and amended to read as follows:

Section 4-103. Traffic and Parking Control Devices

(a) The Council may, by resolution, have erected "stop," "no parking," "speed limit," "one way," "yield," "no U-turn," "no-thru traffic," "no right turn," and "do not enter" signs and other traffic control and parking restriction devices to control, regulate, warn, or guide traffic or limit parking on streets, other public ways, or other areas in the Town of Kensington.

(b) The Council may designate and have marked areas in which parking is [~~banned~~] PROHIBITED altogether for the relief of traffic or congestion.

(c) THE OPERATOR OR PERSON IN CONTROL OF ANY VEHICLE SHALL OBEY THE INSTRUCTIONS OF ANY OFFICIAL TRAFFIC CONTROL DEVICE PLACED IN

ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER UNLESS OTHERWISE DIRECTED BY A TRAFFIC OR POLICE OFFICER. It shall be ~~[the duty of all]~~ UNLAWFUL FOR ANY person[s] to FAIL TO observe all signs and other traffic control devices erected pursuant to this Chapter. Any person failing to observe any such sign shall be subject to the penalties enumerated herein.

(d) All traffic control and parking restriction signs, signals, and other devices in place on the adoption date of this Code are hereby ratified and confirmed.

(e) The ~~[Mayor]~~ TOWN MANAGER may erect ~~[temporary]~~ traffic control devices or limit or prohibit parking as enumerated in Subsections (a) and (b) above, ON A TEMPORARY OR EMERGENCY BASIS if ~~[in his or her opinion,]~~ such action is immediately necessary to protect the health and safety of Town residents or for street plowing, sweeping, repairs, maintenance of utilities, and similar maintenance functions. ~~[No such actions shall be for other than temporary and emergency purposes without the final approval of the Council.]~~

(f) Nothing contained in this Chapter shall be deemed to constitute a repeal of the authority granted by this Section to the Mayor and Council for the erection of any traffic control and parking restriction devices within the Town of Kensington

Section 3. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 1 “General Provisions”, Section 4-106, “Operation of Vehicles on Streets, Sidewalks, Curbs , and Gutters” be repealed, re-enacted and amended to read as follows:

Section 4-106. Operation of Vehicles on Streets, Sidewalks, Curbs, and Gutters

(a) No person shall operate upon any of the streets, alleys, or other public ways in the Town any vehicle constructed or equipped so as to cause any unusual amount of damage to roadways. No wagon, truck, road engine, traction engines, tractors, or other vehicle having metal tires or treads or any vehicle with wheels having any clamps, spikes, ribs, or other devices which may cut into or injure the surface of the roadway shall be operated over or upon any of the streets, alleys, or other public ways in the Town.

(b) No person shall drive or propel any vehicle across any sidewalk, curb, or gutter except at a regular driveway entrance constructed to prevent damage to such sidewalk, curb, or gutter; provided, however, that permits for temporary crossings may be issued by the ~~[Mayor]~~ TOWN MANAGER ~~[where]~~ PROVIDED the curb, sidewalk or gutter is protected by planks or other suitable material and provided further that ~~[if, during such temporary crossings, damage is caused]~~ ANY RESULTING DAMAGE to the sidewalk, curb or gutter, SHALL BE REPAIRED WITHIN TEN (10) DAYS BY the person or persons responsible ~~[for causing the same shall, within ten (10) days thereafter, repair the damage so caused].~~

~~[(c) A violation of this Section shall be a municipal infraction Class A prescribed in Chapter X of this Code of Ordinances.]~~

Section 4. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the

Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 1 “General Provisions”,

Section 4-107, “Bicycles” be and hereby is repealed, reenacted and amended to read as follows:

Section 4-107. Bicycles

- (a) Chapter 7 of the Montgomery County Code ~~[[1984 Edition]]~~ AS AMENDED, entitled “Bicycles”, which provides for the regulation of same, including any future amendments, revisions, or changes thereto, is hereby adopted and made part of this Code by reference, except as otherwise provided in this Code.

(b) through (e) * * * *

Section 5. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the

Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 1 “General Provisions”,

Section 4-108, “Enforcement” be and hereby is repealed, reenacted and amended to read as follows:

Section 4-108. Enforcement

- (a) IN ADDITION TO ANY OTHER ENFORCEMENT AUTHORIZED BY LAW, It shall be the duty of the ~~[Code]~~ Enforcement Officer ~~[-, responsible for parking and traffic control,]~~ DESIGNATED BY THE TOWN MANAGER to issue citations for violations of ~~[Section 4-106 of this Article and violations of]~~ ARTICLE 1 AND Article 2 of this Chapter.
- (b) The ~~[Code]~~ Enforcement Officer~~[-, designated by the Mayor to be responsible for enforcement of this Chapter,]~~ upon discovering any vehicle parked OR OPERATED in violation of this Chapter, shall issue a citation to the owner or operator thereof or, if the vehicle is unattended, shall attach the citation to the vehicle in a conspicuous place, indicating that said vehicle has been parked OR OPERATED in violation of the provisions of this Chapter and is subject to the penalties enumerated in this Chapter.
- (c) Citations issued pursuant to this Section shall contain a description of the location and nature of the violation, bearing the certification of the ~~[Code]~~ Enforcement Officer, under penalty of perjury, that said facts are true.
- (d) The registered owner of any motor vehicle, as established by the records of the state in which the vehicle is registered, shall be presumed to be the recipient of any citation issued pursuant to Article 1 AND 2 of this Chapter, and shall be liable prima facie for said violation.
- (e) Any vehicle unlawfully parked pursuant to this Chapter, or which is the subject of three (3) or more outstanding violations of this Chapter, may be taken into possession by the Town and towed to a proper storage place as described in Subsection (f) of this Section.
- (f) Whenever any vehicle is impounded by the Town pursuant to this Section, the ~~[Code]~~ Enforcement Officer shall immediately send written notice to the owner or owners as determined through the vehicle’s registration record and the state motor vehicle administration, stating the facts of such impoundment and the reasons therefor, the location of the impounded vehicle, and the procedures through which the vehicle may be recovered by the owner. The owner of such vehicle shall

pay to the Town all penalties, fines, and all towing, storage, and impounding charges before the owner may reclaim the vehicle.

~~[(g) The Council for the Town hereby requests and authorizes Montgomery County to enforce the provisions of Article 3 of this Chapter, except Section 4-304.]~~

Section 6. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 1 “General Provisions”, Section 4-109, “Penalties” be and hereby is repealed, reenacted and amended to read as follows:

Section 4-109. Penalties

~~[Unless otherwise specifically enumerated in this Chapter, any person violating any of the provisions of this Chapter shall be guilty of a Class G municipal infraction and shall be subject to penalties as provided in Chapter X of this Code of Ordinances.]~~ THE AMOUNT OF THE FINE TO BE ASSESSED FOR VIOLATIONS OF THIS CHAPTER SHALL BE SET BY THE COUNCIL BY RESOLUTION.

Section 7. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 2 “Parking”, Section 4-201, “General Parking Restrictions” be and hereby is repealed, reenacted and amended to read as follows:

Section 4-201. General Parking Restrictions

(a) It shall be unlawful for any person to park ANY MOTOR VEHICLE, BOAT, TRAILER, CAMPER OR RECREATIONAL VEHICLE on any ROADWAY [~~street~~] within the corporate limits of the Town of Kensington for A CONTINUOUS PERIOD OF MORE THAN 48 hours forty-eight (48) hours AT ANY ONE TIME.

(b) * * * *

(c) It shall be unlawful to park any vehicle facing in a direction contrary to the flow of traffic on that side of the street. On streets with two-way traffic the wheels of the right side of [~~the~~] A PARKED vehicle must be within six (6) inches of the curb side.

~~[(d) It shall be unlawful to park boats, trailers, campers or recreational vehicles on any Town street or public right-of-way for greater than forty-eight hours.]~~

Section 8. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 2 “Parking”, Section 4-207, “Professional Reserved Parking” be and hereby is repealed as follows:

[Section 4-207. Professional Reserved Parking

~~(a) Any physician or dentist practicing his or her profession in an office or property zoned residential within the corporate limits of the Town of Kensington, may file with the Clerk-Treasurer, an application for a section of the street parking space immediately in front of the property or where his or her office is located, not exceeding fifty (50) feet in length, to be reserved for parking of his or her patients.~~

~~(b) The Clerk-Treasurer, upon receipt of such application, shall refer it to the Code Enforcement Officer responsible for enforcing the provisions of this Article, who shall study the matter and report to the Council at its next regular meeting. (c) The Council, if it approves the application, shall order appropriate signs posted, reading in effect “Doctors Office – Parking Between Signs Reserved for Patients”, at the expense of the applicant. The Council may also designate times when such parking restrictions shall be in effect.~~

~~(d) Any person or persons parking in such reserved spaces when he or she is not visiting the doctor or dentist professionally shall be guilty of a municipal infraction and shall be subject to the penalties specified by Section 4-109.~~

~~(e) The Code Enforcement Officer responsible for enforcement of this Article shall review designated professional reserved parking areas on an annual basis to ensure that the premises is being used for the purposes enumerated herein. If the Code Enforcement Officer discovers, at any time, that said premises is no longer being used for a professional practice, then the designation of professional reserved parking shall be immediately revoked.~~

~~(f) It shall be unlawful for any person or property owner to apply for a professional reserved parking designation pursuant to this Section that does not meet the requirements of this Section. A Town permit must be obtained. Anyone found to have applied fraudulently for such a designation shall be guilty of a municipal infraction Class F and subject to the penalties prescribed in Chapter X of this Code of Ordinances.]~~

Section 9. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the

Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 2 “Parking”, Section 4-208, “Residential Parking Area” be and hereby is repealed, reenacted, renumbered and amended to read as follows:

Section 4-20[8]7 Residential Parking Area

(a) * * * *

(b) The Council is hereby authorized to designate [by written order (or regulation)] BY RESOLUTION roads, streets and other areas within the Town in which the parking of vehicles may be restricted, in whole or in part during certain specified times to holders of valid parking permits issued pursuant to this Section, AND TO WITHDRAW ANY SUCH DESIGNATION BY RESOLUTION. The authority granted herein shall be in addition to, and may be exercised in conjunction with, any other authority the Mayor and Council may have to regulate the times and conditions of motor vehicle parking.

(c) – (l) * * * *

(m) It shall be unlawful for any person, without a valid parking permit as described in this Section, to park in a residential parking area from 9:00 a.m. to 5:00 p.m. on weekdays excluding holidays, unless otherwise indicated. Any person found in violation of this Section shall be ~~[guilty of a municipal infraction an]~~ subject to the penalties specified by Section 4-109 of this Chapter.

Section 10. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter IV, “Traffic and Vehicles”, Article 3 “Traffic Control”, Section 4-305, “Enforcement” be and hereby is enacted to read as follows:

Section 4-305. ENFORCEMENT. THE COUNCIL FOR THE TOWN HEREBY REQUESTS AND AUTHORIZES MONTGOMERY COUNTY TO ENFORCE THE PROVISIONS OF ARTICLE 3 OF THIS CHAPTER, EXCEPT SECTION 4-304.

Section 11. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, upon formal introduction of this proposed Ordinance, the Clerk-Treasurer shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the Clerk-Treasurer. The proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council, shall be:

- a. Posted at the town hall by the next business day;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service; and
- d. Published once prior to the public hearing in the town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All

persons interested shall have an opportunity to be heard. This Ordinance shall become effective on _____ provided that the ordinance or a fair summary thereof is:

- a. Posted at the town hall by the next business day for at least two (2) weeks;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service; and
- d. Published once in the town newsletter.

INTRODUCED by the Mayor and Council of the Town of Kensington at a public meeting assembled on the ____ day of _____ 2017.

ADOPTED by the Mayor and Council of the Town of Kensington at a public meeting assembled on the ____ day of _____ 2017.

EFFECTIVE the ____ day of _____, 2017.

ATTEST:

TOWN OF KENSINGTON

By: _____
Susan Engels, Clerk-Treasurer

By: _____
Tracey Furman, Mayor

APPROVED AS TO FORM:

Suellen M. Ferguson, Town Attorney