

Mayor Tracey Furman

Council Member Darin Bartram
Council Member Sean McMullen



Council Member Conor Crimmins
Council Member Duane Rollins

January 4, 2018

Monday, January 8, 2018
Town Council Meeting – 7:00 PM

CALL TO ORDER

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

APPROVAL OF MINUTES

Regular Meeting of December 11, 2017

FROM THE MAYOR AND TOWN COUNCIL

Acknowledge Receipt of the Audit Committee's Report for FY17

FROM THE TOWN MANAGER AND STAFF

PUBLIC APPEARANCES

(The public is invited to speak on any subject that is not a topic on tonight's agenda)

ORDINANCES, RESOLUTIONS, AND REGULATIONS

(Ordinances, resolutions, and regulations to be introduced or adopted following appropriate procedures required by the Town Code; or resolutions that may require discussion by the Mayor and Council prior to approval)

1. **Resolution No. R-01-2018** – A Resolution of the Mayor and Town Council updating the Schedule of Fees, Charges, and Expenses of the Town of Kensington.
2. **Resolution No. R-02-2018** – A Resolution of the Mayor and Town Council authorizing the Town Manager to sell a 1996 GMC Packer Truck, which is no longer needed for public use.
3. **Ordinance No. O-03-2017** – Amending Chapter VI, "Signs and Commercial Regulation", Article 1, "Signs and Solicitors", Section 6-101, "Signs"; 6-102, "Town Sign Permit Required; 6-103, "Signs in the Public Right-of-Way; and Section 6-104, "Signs on Private Property", to clarify requirements with respect to a-frame and sandwich signs, permitting, and signs in the right-of-way, to reduce landscape requirements, revise the length of time that a limited duration sign may be posted in the right-of-way, and to make conforming changes.
4. **Ordinance No. O-04-2017** – Amending Chapter IV, "Traffic and Vehicles", by amending and re-enacting Article 1, "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 2, "Parking", Section 4-

Town of Kensington 3710 Mitchell Street Kensington, MD 20895
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201, "General Parking Restrictions" and Section 4-208, "Residential Parking Area", while also deleting Section 4-207, "Professional Reserved Parking", and Article 3, "Traffic Control" by adding Section 4-305, "Enforcement" to update the Chapter and make provisions 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.

ADJOURN

(The Mayor and Council may move to close the meeting and may move to reopen the meeting)

THE NEXT SCHEDULED MEETING(S) OF THE MAYOR AND TOWN COUNCIL WILL BE HELD:

Monday, February 12, 2018, and Monday, March 12, 2018

RESOLUTION No. R-01-2018

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL AMENDING THE SCHEDULE OF TOWN FEES, CHARGES, AND EXPENSES

WHEREAS, the Mayor and Council are authorized to set the fees and charges to be imposed by the Town for building, sign and right of way permits and Town park and facility use permits; and

WHEREAS, the Mayor and Council have determined that certain permit fees should be increased.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Kensington, that all previous resolutions as to fees, charges and expenses, and bonds and/or deposits are hereby amended as follows:

1. Excavations and Obstructions – Streets, Sidewalks, Maintenance and use of the Public Right-of-Way (Chapter III)

Excavations (Public Right-of-Way) – Minimum Permit Fee:-----[~~\$160~~] \$165
Plus an additional [~~\$2.05~~] \$2.10 per linear foot under unimproved areas or sidewalks; or
an additional [~~\$4.50~~] \$4.60 per linear foot if under a Town paved street.

Alternative fees may be adopted through Resolution by the Mayor and Town Council for projects that provide access and/or services throughout the entire Town.

A bond or deposit may be required in an amount that, in the judgment of the Building Inspector, will guarantee the restoration of the public right-of-way to a condition as good as its original condition, except that no deposit bond shall be greater than \$5,000, except by Resolution of the Council.

Obstructions Public Right-of-Way:
Utilities – Permit Fee: -----[~~\$160~~] \$165
Storage Containers (up to 30 days) – Permit Fee:-----\$35
Dumpster Bond:-----\$1,000
POD or similar Bond:-----\$500

2. Construction and Maintenance of Driveway Aprons (Chapter III)

Commercial and Residential Driveway Apron – Permit Fee:-----\$35
Commercial and Residential Driveway Apron – Bond:-----\$1,000

3. Construction and Maintenance of Driveways and Parking Surfaces (Chapter V)

New or Reconstructed Commercial Driveway – Permit Fee:-----\$215
New or Reconstructed Residential Driveway – Permit Fee:-----\$110

4. Residential, Commercial, and Commuter Parking Permits (Chapter IV)

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 Resolution

Residential Parking Permit – Permit Fee Per Vehicle:-----\$20
 Business Parking Permit (Blue Lot Only) – Permit Fee Per Year:-----\$20
 Commercial/Commuter Parking Permit – Permit Fee Per Year:-----[~~\$185~~] \$200

5. Housing and Building Permits (Chapter V)

Town Building Permit General Construction – Permit Fee:-----[~~\$105~~] \$110

Projects exceeding \$35,000 in estimated construction costs will be assessed an additional \$3.00 per \$1,000 of construction costs.

Building Permit Bond, If necessary – Bond:-----\$50 - \$5,000

Shed Construction – Permit Fee:-----\$35
 Sheds in excess of 100 square feet – Permit Fee:-----\$105

Fence Installation New – Permit Fee:-----\$35

Building Lines Variance – Application Fee:-----[~~\$250~~] \$260
Posting Sign Fee: A \$100 deposit which will be refunded following the Variance Hearing and the return of the Variance Posting Sign.

Dumpsters and Other Storage Receptacles Private Property – Permit Fee:

Initial Fee for up to 30 Days:-----\$35
 Extension for an additional 120 Days:-----[~~\$140~~] \$145
 Extension beyond an additional 120 Days:-----[~~\$280~~] \$300

6. Signs Chapter VI

Commercial Sign – Permit Fee:
 Illuminated Sign:-----[~~\$210~~] \$215
 Non-Illuminated Sign:-----[~~\$105~~] \$110
 Replacement Panels within an existing approved sign:-----\$35
 A-frame sign per year:-----\$5

Sign Variance – Application Fee:-----[~~\$150~~] \$155

7. Town Hall and Parks

Town Hall:

Production and Rental Groups – Fees:
 British Players Per Production:-----[~~\$4,600~~] \$4,700
 Kensington Arts Theatre Per Production:-----[~~\$3,250~~] \$3,300
 Kensington Historical Society Per Fiscal Year:-----\$15

Drill Hall – Rental Fee Per Hour:-----[~~\$150~~] \$200
The Drill Hall may not be rented for less than four (4) hours, per event, and rentals exceeding eight (8) hours will have a maximum [~~\$1,400~~] (\$1,450) fee

per day. An additional \$300 refundable security deposit will be collected and returned upon inspection of the Drill Hall following the event.

Conference Room – Rental Fee Per Hour:-----\$70
A \$200 refundable deposit will be required if food and drinks are served.

Class Room – Rental Fee Per Hour:-----\$80
A \$200 refundable deposit will be required if food and drinks are served.

Custodial Fee:-----\$75
A custodial fee will be assessed for all events that require setup and/or breakdown of the rental space.

Farmers Market – Permit Fees:

Seasonal (April – October):-----[~~\$200~~] \$250
Annual (Yearly):-----[~~\$350~~] \$400

Town Parks:

Spring Bilingual Montessori School – St. Paul Park Annual Rate:-----[~~\$1,400~~] \$1,450

For Profit Users – Hourly Rate:-----\$25

Miscellaneous Charges and Fees:

Copying Chargers, per page, for non-Town documents:-----\$0.15

Public Information Request – Staff Hourly Rate:-----\$36
Rate is per request and in excess of two (2) hours.

Montgomery County Voter Registration List – Electronic Copy:-----None

Montgomery County Voter Registration List – Paper Copy:-----\$24

Official Town Mailing list, addresses only, labels format:-----[~~\$36~~] \$40

Town Newsletter:

¼ Page:-----\$25

½ PAGE:-----\$50

FULL PAGE:-----\$100

INSERT:-----\$150

ADOPTED by the Town Council of the Town of Kensington on this 8th day of January 2018, to be effective immediately.

Tracey C. Furman, Mayor

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the 8th day of January, 2018.

Susan Engels, Clerk- Treasurer

RESOLUTION NO. R-02-2018

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL AUTHORIZING THE TOWN MANAGER TO SELL A 1996 GMC PACKER (VIN: 1GDP7H1J5TJ516168) TRUCK, WHICH IS DEEMED SURPLUS AND NO LONGER NEEDED FOR A PUBLIC USE.

WHEREAS, the Town owns a 1996 GMC Packer (VIN: 1GDP7H1J5TJ516168), which is no longer needed by the Town Public Works Department; and

WHEREAS, the Mayor and Town Council have determined that said truck is no longer needed for public use and it is in the public interest to dispose of said truck.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council that the 1996 GMC Packer (VIN: 1GDP7H1J5TJ5161682008) is hereby declared surplus and no longer needed for public use and that the Town Manager is authorized to utilize the eGOV program through the Montgomery County Department of General Services, GOVDEALS, Municibid or private bids to dispose of said Truck and any funds gained will be returned to the Vehicle Replacement Fund within the Town's CIP.

ADOPTED by the Mayor and Town Council this **8th** day of **January, 2018**.

Tracey C. Furman, Mayor

THIS IS TO CERTIFY that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the **8th** day of **January, 2018**.

Susan Engels, Clerk- Treasurer

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING
CHAPTER VI, ARTICLE I, “SIGNS AND SOLICITORS”, SECTIONS 6-101, “SIGNS”; 6-102
“TOWN SIGN PERMIT REQUIRED”; 6-103, “SIGNS IN THE PUBLIC RIGHT OF WAY”; 6-
104 “SIGNS ON PRIVATE PROPERTY – CRT, CRN AND INDUSTRIAL ZONES” AND 6-106,
“ENFORCEMENT AND PENALTIES” TO CLARIFY REQUIREMENTS WITH RESPECT TO
A-FRAME AND SANDWICH SIGNS, PERMITTING, AND SIGNS IN THE RIGHT OF WAY,
TO REDUCE LANDSCAPE REQUIREMENTS, TO REVISE THE LENGTH OF TIME THAT A
LIMITED DURATION SIGN MAY BE POSTED IN THE RIGHT OF WAY, AND TO MAKE
CONFORMING CHANGES.

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Town of Kensington (hereinafter, the “Town”) has the power to pass 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 the Land Use Article, Annotated Code of Maryland the Town is authorized to adopt additional or stricter commercial sign regulations than are otherwise imposed by the State, the Maryland National Capital Park and Planning Commission, or Montgomery County; and

WHEREAS, the Mayor and Council have determined that it is in the public interest and will promote the preservation, improvement and redevelopment of the Town’s commercial areas to adopt certain sign regulations; and

WHEREAS, the Mayor and Council have determined that clarification with respect to A-frame and sandwich signs requirements, permitting requirements, and signs in the right of way, a reduction in the landscape requirement and a revision of the length of time that a limited duration sign may be posted in the right of way are appropriate and in the public interest.

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|-----------------|--|
| 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. |

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter 6, “Signs” Article 1 “Signs and Solicitors”, Section 6-101 “Signs” of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-101 Signs

(a) The Town shall have the power to enforce, and incorporates by reference herein as if fully set forth, the provisions of Chapter 59, Article 59-6, Division 6.7 of the Montgomery County Code, as amended, entitled "Signs", except as otherwise provided herein. This Article is an exception to the general exemption from County law contained in Section 1-202 of this Code.

(b) The purpose of Sections 6-101 through 6-106 of this Article is to regulate the location, size, placement and certain features of signs placed in the public right of way, and in commercial and industrial zoned properties. These regulations do not apply to signs in a residential zone, unless specifically stated. These regulations are intended to protect the public health, safety, comfort and welfare, to enable the public to locate goods, services and facilities without difficulty, danger or confusion, to prevent hazards to life and property, AND to preserve and strengthen the character of the town and to protect property values.

(c) The following sections contain additional requirements that supplement portions of Chapter 59, Article 59-6, Division 6.7, of the Montgomery County Code and, in cases of conflict, shall supersede and take precedence over Chapter 59, Article 59-6, Division 6.7, of the Montgomery County Code.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, “Signs and Commercial Regulations” Article 1 “Signs and Solicitors”, Section 6-102 “Town Sign Permit Required” of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-102. Town Sign Permit Required – CRT-CRN AND INDUSTRIAL ZONES

(a) It shall be unlawful to erect, construct, locate, place or alter any PERMANENT sign or part thereof, OR ANY A FRAME TYPE SIGN OR SANDWICH TYPE SIGN, [~~excluding interior window signs,~~] without first obtaining a sign permit from the Town. A permit application, together with a copy of plans and specifications for the work and any required fee, shall be filed with the Town Manager or designee, who shall issue a permit in accordance with the provisions of the Town code. By application for a sign permit the applicant and owner give consent to the Town Manager or designee to

enter onto the property to inspect any activity encompassed in the permit as often and at such times as deemed necessary during the course of the activity to ensure compliance with this chapter and other applicable law. Applicants must provide the Town with any information deemed necessary to process the permit.

(b) The permitting requirements of this Chapter do not exempt any applicant from obtaining proper permits from Montgomery County as required by County law.

(c) Permit fees shall be set by resolution of the Council.

(D) THE DATE OF ERECTION OF ANY LIMITED DURATION SIGN MUST BE WRITTEN IN INDELIBLE INK ON THE LOWER RIGHT CORNER OF THE SIGN.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, “Signs and Commercial Regulations” Article 1 “Signs and Solicitors”, Section 6-103 “Signs in the Public Right-of-Way” of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-103. Signs in the Public Right-of-Way.

(a) Except as otherwise provided herein, it shall be unlawful to display or post any sign in a public right of way under the Town’s jurisdiction.

(b) It shall be unlawful to attach any otherwise lawful sign to utility poles, trees, fences or other signs in the public right of way.

(c) It shall be lawful to post or mount LIMITED DURATION SIGNS in the public right of way FROM 10:00 A.M. ON FRIDAY THROUGH 5:00 P.M. THE FOLLOWING SUNDAY [~~for up to 24 hours (48 hours on weekends) only, limited durations signs announcing yard, garage or estate sales; special events open to the public; or real estate open house directions]. The minimum time between lawful postings of signs shall be five (5) days. All such signs posted for more than 24 hours (48 hours on weekends) shall be considered a nuisance and are removable without notice by a public or governmental official at any time thereafter, unless said signs have been authorized to remain by the Town government.~~] Signs authorized by this Section may not be installed or removed in a manner that will cause damage to the right of way. Authorized signs may not block or obstruct any permanent signage nor may they obstruct pedestrian or vehicular traffic or sightlines.

(d) Any otherwise lawful sign required by law or regulation, and signs used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, or providing information, is exempt from this section.

(E) All ~~[such]~~ signs posted ~~[for more than 24 hours (48 hours on weekends)]~~ IN VIOLATION OF THIS SECTION shall be considered a nuisance and are removable without notice by a public or governmental official at any time thereafter, unless said signs have been authorized to remain by the town government.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, “Signs and Commercial Regulations” Article 1 “Signs and Solicitors”, Section 6-104 “Signs on Private Property” of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-104. Signs on Private Property – CRT, CRN and Industrial Zones.

(a) Comprehensive Signage Plan Required – Before a permit may be issued under this Article for properties within the CRT, CRN and Industrial Zones, for properties occupied by more than one (1) business/tenant, a signage plan must be filed demonstrating that each sign for which a permit is requested is consistent and harmonious in terms of location, design, color, shape, size, style, material, and mounting with all other such signs on the property. Signs for individual businesses/tenants in a multi-tenanted building shall be placed only on the pedestrian levels of the building. A signage plan for the entire property shall be submitted by the owner prior to the issuance of the first sign permit for the property and shall be updated to include all existing and proposed signs when any sign is installed, altered or replaced.

(b) Prohibited Signs - The following sign types are prohibited:

(1) Internally illuminated box signs with flat graphics and/or translucent face material are prohibited.

(2) Pole (freestanding) signs, except when

A) located at retail shopping centers and grocery stores with greater than one hundred (100) parking places. Retail shopping centers and grocery stores will be allowed only one pole sign each; OR

B) Located in the Kensington Historic District, when the Historic Preservation Commission has made a determination that the sign is an integral part of the environmental setting or is important to the historic character of the neighborhood.

(3) Internally illuminated signs (except as provided herein);

(4) Portable signs or flashing or scrolling signs.

(5) Illuminated signs in the R-60 Zone.

(6) A-frame type signs or sandwich signs unless they meet the following conditions:

A. Can only be utilized during the hours of operation, on the site where the business is located, and must be removed at the close of business each day;

B. Cannot exceed six (6) square feet per side, regardless of how connected or viewed [~~and can only be constructed of wood and chalk or dry erase board material~~];

C. Cannot be placed in the public right-of way and must provide a clear unobstructed path for use by pedestrians to and from the establishment and must meet the Americans with Disabilities Act requirements; and

D. Must be constructed and anchored in a manner to achieve wind grade certification. Examples of acceptable A-frame signs are attached as Figure 1.

E. MUST BE PERMITTED BY THE TOWN AS A LIMITED DURATION SIGN.

(c) Ground freestanding signs – Ground freestanding signs measuring less than six (6) feet in height and fifty (50) square feet in area, and including a landscaped area at the base of the sign measuring a minimum of ~~{two (2)}~~ ONE square [feet] FOOT for each square foot of sign area, are permitted. Only one ground freestanding sign shall be permitted per recorded lot. ONCE INSTALLED, LANDSCAPING MUST BE PROPERLY MAINTAINED.

(d) Illumination (External) - Exterior sign illumination shall be discrete, uniform, and compatible with the architecture of the structure. The light source shall only illuminate the sign and shall not glare, reflect, or shine onto public ways, streets, park areas, or residential properties. Sign illumination must use an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line. The light source shall be shielded or controlled in a manner so that it does not generally shine above or beyond the sign. On properties abutting, contiguous or confronting, or within 150 feet of, a residential property or use, all signage illumination light sources (including neon) must be turned off when the business is not open for public access or before 10:00 p.m. daily, whichever occurs first.

(e) Illumination (Internal) – Only internal or backlit illumination signs composed of individually mounted channel letters, or in box signs with opaque face panels that utilize routed push-through or LED text or overlay translucent text material. Individual letters shall be mounted directly to the building or on raceways or tracks attached to the building are permitted.

(f) Allowable Signage Calculations – Signage calculations shall include exterior [~~window~~] signage of all types including permitted neon signs. Symbols, letters and logos count towards total signage. Properties abutting or confronting residential property shall be limited to one (1) square foot of signage for each lineal foot of building frontage.

(g) Applicability – This section applies only to signs in the CRT, CRN and Industrial Zones, except where specifically noted. All new commercial signage, repairs to existing signage, changes to sign text, tenancy changes, property ownership changes, business name changes, or use changes must comply with this [~~Ordinance~~] ARTICLE. Whenever an existing sign is altered, it shall be modified to bring it into conformance with this chapter. Whenever any existing business/tenant/owner erects a new or additional sign, all signs on the premises pertaining to that business/tenant/owner shall be modified to bring them into conformance with this chapter. Any pole sign lawfully existing immediately prior to September 1, 2009 that did not conform to the requirements of this section on that date shall be removed or modified to come into compliance with this article. Signs installed by the Town of Kensington or signs at fire stations and public libraries and schools, any sign required by law or regulation by a governmental agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as signs controlling traffic, identifying streets, warning of danger, or providing information, are exempt from This section, but not from the application of Chapter 59, Article 59-6, Division 6.7 of [~~the~~]the Montgomery County Code.

(h) Additional Restrictions for Signs within the Historic Commercial District (Howard Avenue, Armory Avenue, Fawcett Street, St. Paul Street, and Montgomery Avenue) - The following types of signs are not permitted in the historic commercial district unless a variance is granted by the Council:

- 1) Internally illuminated signs.
- 2) Neon signs or neon decorations.

(i) Interior Window Coverage - The maximum total area of interior window signs shall not exceed twenty percent (20%) of the glass area for each side of the building.

(j) PERMITTED POLE SIGNS - Permitted pole signs shall include a landscaped area at the base of the sign measuring a minimum of [~~two (2)~~] ONE square ~~feet~~ FOOT for each square foot of sign area. ONCE INSTALLED, LANDSCAPING MUST BE PROPERLY MAINTAINED.

(k) Variance Procedure - If a signage permit application is denied by the Town, an applicant may seek a Variance from this section within 15 days of the date of denial. A variance may not be granted for the erection, installation or maintenance of a sign prohibited by Section 6-104(b). A variance may be granted when the Council finds that:

- 1) strict application of the Town regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property or owner of such sign;
- 2) the variance is the minimum reasonably necessary to overcome any exceptional conditions;
and
- 3) the variance can be granted without substantial impairment of the intent, purpose, and integrity of this Article. A variance decision must be based on consideration of:

- a. one or more of the following elements: size, shape, color, design elements, location or cost of the sign;
- b. the compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area; and
- c. confirmation that the property and all other signs on the property are in conformance with the Article.
- d. recommendation of the HPC if located in the Historic District and if requested by the Council or offered by the HPC.

4) Contiguous, confronting and abutting owners must receive notice of the variance application prior to consideration by the Council.

(1) Conditions And Revocation - The Council may impose conditions and terms on a sign variance, and may revoke any previously granted sign variance when it determines:

- 1) the applicant supplied inaccurate information to the Council, or
- 2) the terms of the variance set by the Council have not been met or have been violated. The Council may establish a detailed variance application, checklist and charge fees for the consideration of variances requests.

This provision shall not permit the Council to grant a variance allowing any sign prohibited under Montgomery County Chapter 59- 6, Division 6.7.

Section 5. 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 Town Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the Town Clerk. 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 **January 29, 2018** 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, Maryland at a public meeting assembled on the **23rd** day of **October, 2017**.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the **8th day** of **January, 2018**.

EFFECTIVE the **29th** day of **January, 2018**.

ATTEST:

TOWN OF KENSINGTON

By: _____
Susan Engels, Clerk-Treasurer

By: _____
Tracey C. Furman, Mayor

APPROVED AS TO FORM:

Suellen M. Ferguson, Town Attorney

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 determinations, to clarify enforcement and authorize adoption of fines by resolution, to delete the

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| [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. |

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 and]~~ 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 **January 29, 2018** 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, Maryland at a public meeting assembled on the **23rd** day of **October, 2017**.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the **8th day** of **January, 2018**.

EFFECTIVE the **29th** day of **January, 2018**.

ATTEST:

TOWN OF KENSINGTON

By: _____
Susan Engels, Clerk-Treasurer

By: _____
Tracey C. Furman, Mayor

APPROVED AS TO FORM:

M. Ferguson, Town Attorney

Suellen M. Ferguson, Town Attorney