

## Maryland Public Information Act [MPIA]

The Clerk-Treasurer of the Town of Kensington is the custodian of records for the Town and is the designated contact person for requests under the Maryland Public Information Act. The Clerk-Treasurer, Susan C. Engels, can be reached at 301-949-2424 or by e-mail at [susan.engels@tok.md.gov](mailto:susan.engels@tok.md.gov).

The Town maintains certain files and records that are classified as public records. Generally, these public records may be made available to the public in accordance with the guidelines of the Maryland Public Information Act (MPIA) (§10-611 *et seq.* of the State Government Article, Annotated Code of Maryland, as amended). MIPA requests **MUST** be in writing, and may be mailed, emailed, faxed or hand delivered to the Clerk-Treasurer. You may use the Town's MPIA Request Form, but is not required. Your request should sufficiently identify the records that you are seeking, including a clearly identified subject matter and specific dates of the documents requested.

### Fees:

There are occasions when fees may be charged to produce documents requested under the Maryland Public Information Act. It is the policy of the Town of Kensington to require prepayment of such fees, notify the applicant of the fees incurred, and that said fees must be paid in full prior to the release of the documents. The fee schedule is below. All fees should be paid through the Town Clerk-Treasurer.

- Copies: The first 30 pages are free; thereafter, copies are 10¢ per page. The actual cost will be charged when outsourced.
- Staff Time: The first two hours are free; thereafter, **\$36.00 hour** is charged for staff time for search, preparation and production of records for inspection and copying. Different charges may apply if staff members with certain expertise are utilized.
- Copy of meeting audio tape or CD: **\$2.00 per tape or CD** (in-house) or actual cost when outsourced
- Payment shall be made in cash or check payable to "Town of Kensington" and **must be received before the documents are released.**

If you have any questions about the administration of the above guidelines please contact the Clerk-Treasurer at 301-949-2424.

Town policy is that documents that are *designed* for public use, and certain other documents designated by the Town, may be provided to members of the public promptly without requiring that the applicant make a formal request. These include:

- Copies of Sections of the Town Code
- Standard Forms
- Town Policies
- Resolutions and Ordinances
- Council Meeting – Agenda & Handout Items and Non-Confidential Supporting Material
- Annual Operating and CIP Budget and Audit Report
- Periodic Reports of town activities
- Documents designed to be provided to the public
- Documents available on the Town’s website

### **Receiving A Request:**

A request for a document **that does not fall into the categories listed** above must be made in writing using the Town’s “Maryland Public Information Act” request form. **E-mail requests will be accepted.** The request should be as clear and as detailed as possible. For example, it should include the specific date and/or time frames, the subject and/or document names, and specific addresses, when relevant. Staff may ask questions of the requestor to help clarify the request.

An MPIA request may be submitted to the Mayor, Town Manager, or Town Clerk-Treasurer but a copy must be immediately forwarded to the Town Manager.

A new MPIA process is being introduced to better track requests for public information. When a request is received the original copy upon receipt, shall be logged in with the date and time.

The Town Manager or designee, shall begin to process the request and upon completion and verify that the request has been fulfilled and copies attached, when required. Also, any fees incurred will be collected at the direction of the Town Manager or designee.

An applicant cannot be required to provide his/her name, address, organization, or reason for request as a precondition for making an MPIA request. Staff can require this information when necessary to be able to contact the applicant, or to decide about permissible denials or whether to grant a fee waiver request. (§10-614).

### **Response To A Request:**

The request for records shall be granted or denied promptly, and in any event, **no later than 30 days after receipt of the request.** If a record is found to be responsive to a request and is recognized to be open to inspection, it must be produced promptly after receipt of the written request, and in any event, within 30 days of receiving the

request. **When a request is denied, the applicant must be notified immediately, and a written statement must be provided to the applicant within 10 working days stating the reason for denial,** the legal authority for the denial, and notice of the remedies for review of the denial (§10-623, State Government Article, Annotated Code of Maryland). The Town Attorney is to be consulted prior to any denial of an MPIA request.

The Town Manager or designee should respond directly to the request, unless the request involves either 1.) the Town Attorney, or 2.) the collection of fees. In these cases, the responsive material should be forwarded to the Town Manager or designee who will process the response. In cases where the Town Manager or designee responds directly, a copy of the MPIA Request Form, must be logged in and the response copied and record indicating the date of the response.

**Certain records are specifically excluded from public review such as personnel records, confidential records, attorney-client documents, etc.** This is not a complete list. If there any questions, please contact the Town Attorney or check the Code.

The following additional guidelines shall be followed:

- **Review by Town Attorney:** The Town Attorney must review certain MPIA requests before processing. **These include requests deemed to be complex or likely to involve controversy, those that come from a party engaged in a dispute or litigation with the Town, files containing attorney-client communication, and any request involving an enforcement action.** The Attorney must review any request that is to be denied. If in doubt, ask the Attorney.
- **Integrity of Files:** When otherwise allowed, **a requestor is entitled to review a file. To maintain the integrity of the records, the original documents or files shall never be presented for review unless a designated Town employee is in constant attendance.**
- **Delayed release of studies, reports and other documents addressed to Mayor and Council:** To insure the orderly process of government, the Town Manager may, by Administrative Directive, withhold certain documents for a reasonable period of time, not to exceed 9 days, from public disclosure so as to insure that the Mayor and Town Council themselves have had an opportunity to see the document before it is provided to a requestor. Such documents shall include the Town Manager's Annual Budget Proposal, reports from consultants, and similar documents. With regard to in-house documents such as the Annual Budget, the 9-day period shall begin to run from the day of physical assembly and completion of the document, or the date of request for inspection, whichever is later.

- Copies of Records: Copies generally do not need to be kept of the items provided to the requestor for standard requests. **In the case of a request when the Attorney has been consulted, copies should be kept.**
- Creation of Records: **The Town has no obligation to “create” records to satisfy a Public Information Act request, nor is the town or an employee required to reprogram its computers or aggregate computerized data files so as to effectively create a new record.**
- The MPIA does NOT require a staff person to explain or clarify the documents being provided. **However, questions may be asked of the requestor to help clarify and narrow down the scope of the request.**