

Mayor Tracey Furman

**Council Member Darin Bartram
Council Member Bridget Hill-Zayat**



**Council Member Conor Crimmins
Council Member Duane Rollins**

Released: November 14, 2019

**Monday, November 18, 2019
Town Council Meeting, 7:00 pm**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

APPROVAL OF MINUTES

1. Regular Town Council Meeting and Work Session of October 7, 2019
2. Special Town Council Meeting and Work Session of October 28, 2019
3. Closed Session of July 18, 2019
4. Closed Session of August 5, 2019
5. Closed Session of August 12, 2019
6. Closed Session of September 9, 2019
7. Closed Session of October 28, 2019

FROM THE MAYOR AND TOWN COUNCIL

1. **Alcohol Legislation (MC 15-20)** – Discussion and review of the DRAFT Alcohol Legislation bill (MC 15-20) to amend the Town's existing Alcohol regulations.
 - a. The Town is proposing to adopt Montgomery County's Alcohol regulations with the premise of limiting the number of certain licenses issued, along with additional regulations. Kathie Durbin, Montgomery County Alcohol Beverage Services, will be in attendance to answer questions from the community with regards to the DRAFT Legislation. Key changes within the proposed legislation would:
 - i. Remove the geographical barriers for licenses within the Town;
 - ii. Allow alcohol (beer and wine) to be served at community and private commercial events throughout the Town;
 - iii. Allow for the manufacturing and sale of distilled products.
 - b. *The DRAFT bill is currently under review by the Town's Attorney and will be made available Monday evening prior to the meeting.*
2. **Park Signs** – Discuss and review the proposed language for new regulation signs at Town Parks.

**Town of Kensington 3710 Mitchell Street Kensington, MD 20895
Phone 301.949.2424 Fax 301.949.4925
www.tok.md.gov**

3. **Kensington Dog Run (Dog Park)** – Update on the newly opened Kensington Dog Run at 10450 Metropolitan Avenue.
4. **Development Review Board (DRB)** – Update on proposed DRB Guidelines and the upcoming DRB Meeting (11/19) for the proposed 4000 Knowles Avenue Townhome project.

FROM THE TOWN MANAGER AND STAFF

1. **Spring Bilingual Montessori School Storage Shed** - Review request by Spring Bilingual Montessori School to place a storage shed within St. Paul Park.
2. **Audit Committee** – Update from the November 18, 2019 Audit Committee Meeting.
3. **Town Manager** – Report from the Town Manager.

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-20-2019** – A Resolution of the Mayor and Town Council to authorize the Town Manager to execute a contract with Linton, Shafer, Warfield & Garrett, P.A., Certified Public Accountants, to perform the annual Audit for Fiscal Year 2019-2020 (FY20).
2. **Resolution No. R-21-2019** – A Resolution of the Mayor and Town Council to approve a Debris Management Plan Memorandum of Understanding between the Town of Kensington and Montgomery County.
3. **Resolution No. R-22-2019** – A Resolution of the Mayor and Town Council proclaiming November to be Municipal Government Works month in Kensington, Maryland.
4. **Ordinance No. O-04-2019 (Introduction)** – Introduction of an Ordinance of the Mayor and Town Council to Amend Chapter VII, “Public Health, Safety, and Conduct”, Article 5, “Animals”, by repealing and re-enacting Section 7-501, “County Animal Control Law Adopted”, Section 7-502, “Owners Responsible for Curbing of Animals”, and Section 7-503, “Control of Vicious Animals”; and by adding Section 7-504, “Unwanted Contact”, Section 7-505, “Animal Noise”, Section 7-506, “Dangerous Animals”, and Section 7-507, “Dog Exercise Area”, and otherwise make conforming changes.

ADJOURNMENT

(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, December 9, 2019, 7:00 pm

Spring Bilingual Montessori School is interested in putting a small storage shed just outside our shared fence in St. Paul park. The shed would allow us to store toys and equipment (such as balls, jump-ropes, cones, and other outdoor toys) that we currently have to carry outside for each use. It would certainly make things easier and safer for our staff and would allow better access for use of the equipment by our children.

The shed we are looking at is only 8 feet wide by 4 feet deep and 6 feet tall. It has a floor and would sit right on the ground all the way against the fence. Aesthetically, the natural colors of the shed would blend in with the park surroundings. Since it is only 4 feet deep, it would not protrude beyond the bushes that line the fence. At 6 feet tall, it would match fence height and being only 8 feet wide, it would easily fit in the open space without needed any changes to the current landscape. It would take up less than 50 square feet of ground coverage.

If approved, we would add a padlock and sign to the shed indicating that it is property of the school. We would be happy to provide a key to TOK and/or allow you to check the shed periodically, if desired.



RESOLUTION NO. R-20-2019

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON TO AUTHORIZE THE TOWN MANAGER TO EXECUTE A CONTRACT WITH LINTON, SHAFER, WARFIELD & GARRETT, P.A., CERTIFIED PUBLIC ACCOUNTANTS TO PERFORM THE ANNUAL AUDIT FOR THE TOWN OF KENSINGTON FOR FY 2019-20

WHEREAS, an annual audit and uniform financial report on the Town's finances are required by the State of Maryland; and

WHEREAS, the Town Audit Committee has reviewed the proposal of Linton, Shafer, Warfield and Garrett, P.A. for auditing services pursuant to Section 812 of the Town Charter and Section 2-105, Audit Committee of the Town Code; and has recommended that the said firm be hired to perform the required annual audit and produce the uniform financial; and

WHEREAS, pursuant to Section 2-404, Bidding Requirements, of the Town Code, any contract for services in excess of \$30,000 in value must be purchased by means of a competitive bid process; and

WHEREAS, pursuant to Section 2-404, Awarding of Bids, of the Town Code, the Mayor and Town Council may, by an extra-majority vote, authorize the award of a contract without a full bid process in cases which, in the Council's judgment, warrant such action; and

WHEREAS, the Mayor and Council have determined, based on their review of the auditor's proposal and the recommendation of the Auditing Committee, to award this contract without a competitive bid process is warranted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Kensington, in public meeting assembled, that the Town Manager is hereby authorized to execute a contract in substantially the form attached with Linton, Shafer, Warfield and Garrett, P.A. to perform the annual audit and prepare the uniform financial report for Fiscal Year 2019-20, with an option on the part of the Town for three additional one year terms.

Adopted by the Mayor and Town Council this ____ day of _____, 2019

Tracey C. Furman, Mayor

This is to Certify that the foregoing Resolution was adopted by the Town Council in public meeting assembled on the 18th day of November, 2019.

Susan Engels, Clerk-Treasurer

RESOLUTION No. R-21-2019

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL TO APPROVE A DEBRIS MANAGEMENT PLAN MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF KENSINGTON AND MONTGOMERY COUNTY

WHEREAS, Montgomery County developed a Debris Management Plan approved by the Federal Emergency Management Agency (FEMA) in December 2008, which is part of the County's approved Emergency Operations Plan; and

WHEREAS, the County has updated the Debris Management Plan for 2019 and will include provisions for the clearing, collection, removal and processing of debris resulting from a significant hazard or disaster occurring in the County; and

WHEREAS, Montgomery County wishes to include the Town of Kensington as a party able to use the provision of the Debris Management Plan for the clearing, collection, removal and processing of debris resulting from a Declaration of Emergency due to a significant disaster or other significant hazard or disaster occurring within the Town under the terms of this MOU; and

WHEREAS, the Town desires to be able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris collected within the Town or designated privately owned area resulting from a significant disaster occurring in the County, upon the County's activation of the Debris Management Plan and under the terms of this MOU.

Now, Therefore, Be It Resolved by the Kensington Town Council that the following apply:

1. A Memorandum of Understanding ("MOU") with Montgomery County for the updated 2019 Debris Management Plan, in substantially the form as attached to this Resolution, be and it is hereby approved; and
2. The Town Manager is hereby authorized to sign the said MOU on behalf of the Town of Kensington.

Adopted by the Town Council on the **18th** day of **November, 2019**.

Tracey C. Furman, Mayor

This is to Certify that the foregoing Resolution was adopted by the Town Council in public meeting assembled on **18th** day of November, **2019**.

Susan C. Engels, Clerk-Treasurer

MEMORANDUM OF UNDERSTANDING
BETWEEN MONTGOMERY COUNTY AND
THE _____

This Memorandum of Understanding ("MOU") is by and between Montgomery County, Maryland, a body corporate and politic, and a political subdivision of the State of Maryland ("County") and the _____, Maryland, a municipal corporation of the State of Maryland ("Jurisdiction").

RECITALS

1. The County has a Debris Management Plan, approved by the Federal Emergency Management Agency (FEMA) in December 2008, which is part of the County's approved Emergency Operations Plan.
2. The County is currently updating the Debris Management Plan and plans to have the project completed in the Fall of 2019.
3. The updated Debris Management Plan will include provisions for the clearing, collection, removal and processing of debris resulting from a significant hazard or disaster occurring in the County.
4. The County wishes to include the Jurisdiction as a party able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris resulting from a Declaration of Emergency due to a significant disaster or other significant hazard or disaster occurring in the County, and under the terms of this MOU.
5. The Jurisdiction desires to be able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris collected within the Jurisdiction or designated privately owned area resulting from a significant disaster occurring in the County, upon the County's activation of the Debris Management Plan and under the terms of this MOU.

NOW THEREFORE, in consideration of the terms of this MOU, the parties agree as follows:

1. The recitals are incorporated herein as if fully set forth.
2. **Definitions**

Ancillary Fees -Ancillary Fees are those costs associated with debris removal that are not covered by specific transportation and disposal charges. They include, but are not limited to, administrative and data management costs, staffing costs for monitors and others directly associated with the debris management operations, supplies, temporary utilities and other justifiable expenses necessary for conducting debris management operations.

County Representative- The County Representative will be the Montgomery County Department of Environmental Protection, Division of Solid Waste Services Division Chief or his designee.

Debris Management - The collection, processing, and recycling or disposal of items and materials broken, destroyed, or displaced by a natural or man-made significant disaster.

Debris Management Plan-The County's plan, and part of the County's Emergency Operations Plan, for the collection, processing, and recycling or disposal of debris generated by a significant disaster.

Declaration of Emergency-A formal declaration by the Governor of Maryland that a state of emergency exists, making jurisdictions within the State eligible for reimbursement for certain emergency related expenditures.

Eligible Material - Eligible Material refers to material whose management costs are eligible for reimbursement under FEMA guidelines such as debris blocking roads. While Eligible Material generally refers to debris on public roads and along public rights-of-way, under specific circumstances outlined in FEMA policy and regulatory documents, FEMA may also designate material on private roads and property as Eligible Material. In these cases, specific guidance from a FEMA official would be required before materials on private roads or property would be included for management under the Debris Management Plan.

Estimated Disposal Fee - Prior to knowing actual management and disposal costs and the final level of FEMA reimbursement for debris management, the County will set an Estimated Disposal Fee to cover ongoing costs for management of debris which should approximate the actual costs for management of the material. This will be an amount calculated to cover the cost per ton or per cubic yard of processing, recycling or disposal of debris that will be paid at the gate or invoiced to parties bringing material to temporary or permanent debris management facilities.

Facility - A Facility is a building, works, system, equipment, or an improved or maintained natural feature.

Federal Emergency Management Agency (FEMA) - The federal agency which oversees the federal response and financial reimbursement to jurisdictions when a formal declaration of emergency has been issued.

Final Adjusted Fee-The Final Adjusted Fee considers all costs and reimbursement and may result in a rebate to jurisdictions that paid the Estimated Disposal Fee during the clean-up of debris.

Jurisdiction - One of the nineteen (19) legally defined municipalities or two (2) special taxing districts within Montgomery County, Maryland that is managed by a public body or individual and has explicitly defined boundaries.

Jurisdiction Representative - The Jurisdiction Representative is the individual authorized to mobilize resources and make financial commitments on behalf of a jurisdiction relative to debris management.

Jurisdiction's Vehicles and Equipment-Jurisdiction's Vehicles and Equipment includes all types of dump trucks, stake body trucks, demolition trailers, walking floor trailers, front end loaders, cranes, grapples, wood chippers and grinders, and any other equipment used in the collection, management and transportation of debris.

Loading Location - Loading Location refers to the specific street and address or approximate address of where debris is loaded into a vehicle and recorded on a ticket by a Monitor.

Monitors - Monitors are individuals under contract to Montgomery County or participating jurisdictions whose job it is to document the loading and receipt of debris for the purpose of preparing necessary information to obtain FEMA reimbursement for the costs of managing Eligible Material. This term may be used in the singular or plural form.

Permanent Debris Management Site - An existing waste management facility with required federal, State and local permits, routinely operating in accordance with applicable laws and regulations that is part of the County's permanent integrated waste management program.

Monitoring Contract - A contract between Montgomery County and a firm qualified to observe and document the clean-up after an emergency event and prepare all necessary documents for submittal to FEMA for reimbursement of debris management costs.

Temporary Debris Management Site - A Temporary Debris Management Site is any site approved by Montgomery County for the short-term receipt, processing and reloading or transfer of debris to meet the short-term needs for debris storage in response to an emergency.

3. Obligations of the County when this MOU is Signed by a Jurisdiction

- A. The County agrees that the Jurisdiction will be able to use the provisions of the Debris Management Plan for the clearing, collection, removal and processing of debris collected within the recorded boundaries of the Jurisdiction resulting from a significant hazard or disaster occurring in the County, upon the County's activation of the Debris Management Plan and under the terms of this MOU.
- B. The County agrees to allow the Jurisdiction to piggyback/bridge the County's contracts with debris management contractors and Monitoring Contract(s), upon the County's activation of the Debris Management Plan and under the terms of this MOU.

- C. The County allows the Jurisdiction to deliver debris or cause debris to be delivered to the Temporary and Permanent Debris Management Sites listed in the Debris Management Plan or any other County-approved site, upon the County's activation of the Debris Management Plan and under the terms of the MOU.
- D. The County contractor's debris management Monitors at the Temporary and Permanent Debris Management Sites will determine the total volume of debris and the amount of debris with sufficient and proper documentation such as completed load tickets to be submitted for debris management cost reimbursement, delivered or caused to be delivered by each Jurisdiction.
- E. Jurisdictions eligible to apply directly to FEMA for reimbursement must do so. The County will not submit reimbursement requests to FEMA on their behalf, if FEMA will accept applications directly from the Jurisdiction. If for some reason the Jurisdiction is not eligible to apply directly to FEMA for reimbursement, the County will reimburse them for any FEMA reimbursement received relative to their Eligible Material.

4. Obligations of the Jurisdiction

The Jurisdiction agrees that in exchange for the preceding commitments of the County and as conditions precedent to the County's commitments, the Jurisdiction will comply with all applicable paragraphs below:

- A. Pay the County an Estimated Disposal Fee* per cubic yard of debris for each cubic yard of debris collected within the recorded boundaries of the Jurisdiction by the Jurisdiction, the Jurisdiction's contractors and County contractors** and delivered to the Temporary and Permanent Debris Management Sites, upon activation of the Debris Management Plan, within thirty (30) days of invoicing by the County. Some portion of this fee may be reimbursed at a later date, depending upon the amount of federal and State reimbursement the County receives.
- B. Pay an Ancillary Fee* per cubic yard of debris for each cubic yard of debris collected within the recorded boundaries of the Jurisdiction by the Jurisdiction, Jurisdiction's contractors and County contractors** and delivered to the Temporary and Permanent Debris Management Sites, the Ancillary Fee will be based on work that County staff or County contractor staff must perform that is not directly related to collecting and disposing or recycling the debris.
- C. Settle with the County on the Final Adjusted Fee which may result in a rebate or an invoice to the Jurisdiction depending upon levels of reimbursement and whether the Estimated Disposal Fee is over- or under-estimated actual costs.

* Estimated Disposal Fees and Ancillary Fees will be established at the time of a Declaration of Emergency and will vary depending upon the severity of the event and the level of outside resources required. Estimated Disposal Fees will be based on the current tipping fees at the Shady Grove Processing Facility and Transfer Station plus any additional per ton costs related to the emergency. Ancillary Fees will be based on actual non-disposal costs related to the emergency proportionally divided among parties delivering debris to County facilities.

**Exclusive of costs associated with debris removed from County, federal and State maintained roads and property within the Jurisdiction which are the responsibilities of the respective parties.

- D. Provide, or cause to be provided, properly trained Loading Location Monitors at locations within the recorded boundaries of the Jurisdiction where debris is collected and loaded onto vehicles.
- E. Train or retain Loading Location Monitors to estimate cubic volumes of debris loaded into vehicles, measure the dimensions and estimate the capacity of each vehicle transporting debris to the temporary or permanent debris management sites, and document the type of debris loaded on the load ticket.
- F. Use the County's load tickets or develop a load ticket that includes sufficient criteria listing information to identify vehicles transporting debris, the vehicle's debris carrying capacity, type of debris, date, identification of the Loading Location Monitor, location where the debris was loaded and other relevant information, including a detailed map of the Jurisdiction including street names and boundaries. The load ticket must also indicate whether the vehicle was machine loaded and compacted or hand-loaded (note: hand-loaded vehicles are only eligible for reimbursement for 50 percent of the vehicle capacity).
- G. Assure that all of the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used for debris hauling must be in compliance with all applicable federal, State and County rules and requirements.
- H. Assure that all the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used for debris hauling must be capable of unloading debris without the assistance of other equipment.
- I. Assure that the Jurisdiction's Vehicles and Equipment and other equipment that the Jurisdiction uses or causes to be used is capable of holding debris to be transported without spillage and able to be filled to capacity.
- J. Assign and affix a number on each side of the equipment in at least three inch high lettering. The lettering must be easy to read in contrast to the color of the equipment where the identification is affixed. There must also be a sign showing the maximum volume, in cubic yards, of the load bed to each piece of equipment assigned to transport debris that is easily visible by Monitors. The Jurisdiction may use the County's records for identification purposes of the vehicles provided that the County has inspected these vehicles and issued the vehicles a County solid waste license.
- K. Assure that the Loading Location Monitors must have the following information for each piece of equipment used to haul debris: Provide the County Representative or his/her designee information about the type of vehicle; make and model; license plate number; equipment number; and maximum measured volume, in cubic yards, of the load bed for each piece of equipment to haul debris. All vehicles used to haul debris will be jointly measured by a Jurisdiction Representative and a county representative before such vehicle or trailer is placed into service.

- L. Assure that all debris is safely secured on each vehicle hauling debris. The Jurisdiction Representative or his/her representative must inspect each load before departure to Temporary and Permanent Debris Management Sites or other approved destinations. Debris must be covered by a tarp or equivalent covering during transport. Debris may not extend beyond the vehicle's bed.
- M. Observe side boards on trucks and trailers so that they do not exceed a height of three (3) feet above the metal truck bed or trailer body.
- N. Prohibit hand loaded trailers unless approved by the County Representative. Approved hand loaded trailers will have their measured volume reduced by 50 percent.
- O. Provide maps to the County and a complete list of streets with the Jurisdiction's recycling and municipal waste disposal collection routes.

5. Terms

This MOU is effective on the date executed below by the County's Chief Administrative Officer. Either party may terminate this MOU upon 60 days written notice to the other party.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the parties have executed this agreement this ___ day of _____
20_____.

SIGNATURES

MONTGOMERY COUNTY, MARYLAND

City Manager

Andrew Kleine
Chief Administrative Officer

Date

Date

Recommendation:

Recommendation:

Director of Public Works

Adam Ortiz, Director
Department of Environmental Protection

Date

Date

APPROVED AS TO FORM AND LEGALITY
BY THE OFFICE OF THE _____
ATTORNEY

APPROVED AS TO FORM AND LEGALITY

By: _____

Date

Terrilyn E. Brooks, Associate County Attorney
Office of the County Attorney

Date

JURISDICTION REPRESENTATIVES

RESOLUTION No. R-22-2019

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL PROCLAIMING NOVEMBER TO BE MUNICIPAL GOVERNMENT WORKS MONTH IN KENSINGTON, MARYLAND

WHEREAS, the Town of Kensington was incorporated following an Act of the Maryland General Assembly on April 6, 1894; and

WHEREAS, the State of Maryland is home to 157 Municipalities, along with two Special Taxing Districts, represented by the Maryland Municipal League (MML); and

WHEREAS, municipal government represents the most responsive level of government, allowing citizens to have direct access to elected officials; and

WHEREAS, in order to help inform the Kensington community about municipal government and the importance of their participation, the Town of Kensington is proud to promote municipal government awareness; and

WHEREAS, the Town of Kensington has enhanced the quality of life of our respective residents by providing necessary services for the community and creating a wonderful place to live, work, play, and explore.

NOW, THEREFORE, BE IT PROCLAIMED that the Mayor and Council of the Town of Kensington, Maryland, do hereby join with the Maryland Municipal League in declaring November to be Municipal Government Works Month in Kensington, Maryland.

Adopted by the Town Council on the **18th** day of **November, 2019**.

Tracey C. Furman, Mayor

This is to Certify that the foregoing Resolution was adopted by the Town Council in public meeting assembled on **18th** day of November, **2019**.

Susan C. Engels, Clerk-Treasurer

DRAFT Ordinance No. O-04-2019
 Introduced: 11-18-2019
 Adopted:

SUBJECT: AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL TO AMEND CHAPTER VII, "PUBLIC HEALTH, SAFETY, AND CONDUCT", ARTICLE 5, "ANIMALS", BY REPEALING AND RE-ENACTING SECTION 7-501, "COUNTY ANIMAL CONTROL LAW ADOPTED", SECTION 7-502, "OWNERS RESPONSIBLE FOR CURBING OF ANIMALS", AND SECTION 7-503, "CONTROL OF VICIOUS ANIMALS"; AND BY ADDING SECTION 7-504, "UNWANTED CONTACT", SECTION 7-505, "ANIMAL NOISE", SECTION 7-506, "DANGEROUS ANIMALS", AND SECTION 7-507, "DOG EXERCISE AREA", AND OTHERWISE MAKE CONFORMING CHANGES.

WHEREAS, §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Town Council to adopt such ordinances as it deems necessary to assure the good government of the Town of Kensington; to protect and preserve the rights, property and privileges of the Town; to preserve peace and good order; to secure persons and property from danger and destruction; and to protect the health, comfort and convenience of Town residents; and

WHEREAS, Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter authorizes the Mayor and Council to adopt such ordinances as it may deem necessary for the good government of the Town; for the protection and preservation of property, rights, and privileges; for the preservation of peace and good order; for securing person and property from violation, danger, or destruction; and for the protection and promotion of the health, safety, and welfare, of the residents and visitors of the Town; and

WHEREAS, the Mayor and Town Council have adopted Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", to govern the care and maintenance of animals in the Town; and

WHEREAS, the Mayor and Town Council have determined that it is in the public interest to repeal, re-enact, and add various provisions within Article 5, "Animals", to update the code, allow the establishment of a dog exercise area and provide regulations for its use, and otherwise make conforming changes.

NOW THEREFORE, the Mayor and Town Council of Kensington does hereby adopt the following ordinance:

CAPS

[Brackets]

Asterisks * * *

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

:Indicate matter added in amendment

: Indicate matter deleted in amendment

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL TO AMEND CHAPTER VII, "PUBLIC HEALTH, SAFETY, AND CONDUCT", ARTICLE 5, "ANIMALS", BY REPEALING AND RE-ENACTING SECTION 7-501, "COUNTY ANIMAL CONTROL LAW ADOPTED", SECTION 7-502, "OWNERS RESPONSIBLE FOR CURBING OF ANIMALS", AND SECTION 7-503, "CONTROL OF VICIOUS ANIMALS"; AND BY ADDING SECTION 7-504, "UNWANTED CONTACT", SECTION 7-505, "ANIMAL NOISE", SECTION 7-506, "DANGEROUS ANIMALS", AND SECTION 7-507, "DOG EXERCISE AREA", AND OTHERWISE MAKE CONFORMING CHANGES.

SECTION 7-501

BE IT ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-501, "County Animal Control Law Adopted", be repealed, re-enacted and amended to read as follows:

Section 7-501. County Animal Control Law Adopted

(a) Chapter 5 of the Montgomery County Code ~~[(1984 Edition)]~~ entitled "Animal Control" which provides for the regulation, licensing, and control of animals, 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) This Section is an exception to the general exception enacted by the Town of Kensington in Section 1-202 of this Code.

(c) The Town hereby requests and authorizes Montgomery County to enforce the provisions of this Section.

(d) The Town of Kensington reserves the right, along with Montgomery County, to enforce the provisions of Chapter 5 of the Montgomery County Code.

(e) A copy of Chapter 5 of the Montgomery County Code shall be kept in the Town office and shall be made available during normal business hours.

SECTION 7-502

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter

CAPS

[Brackets]

Asterisks * * *

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

: Indicate matter added in amendment

: Indicate matter deleted in amendment

VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-502, "Owners Responsible for Curbing of Animals", be repealed, re-enacted and amended to read as follows:

Section 7-502. [~~Owners Responsible for Curbing Animals~~] **ANIMAL DEFECATION**

~~[(a) Pet owners shall clean up and properly dispose of their pet's excrement when it is deposited on public property where people walk or congregate or on private property other than that of the owners.]~~

(A) AN OWNER MUST NOT ALLOW AN ANIMAL TO DAMAGE OR DEFECATE ON PROPERTY OUTSIDE OF THE OWNER'S PROPERTY. AN ANIMAL MAY DEFECATE ON PUBLIC PROPERTY OR THE COMMON AREA OF PROPERTY IN WHICH THE OWNER SHARES AN INTEREST, IF THE OWNER IMMEDIATELY REMOVES AND DISPOSES OF THE FECES BY A SANITARY METHOD APPROVED BY THE TOWN.

(B) ANIMAL FECES MAY BE PICKED UP IN A PLASTIC BAG AND DISPOSED OF IN NORMAL HOUSEHOLD TRASH, IF THIS BAG IS PLACED INSIDE ANOTHER PLASTIC BAG.

~~[(b) It shall be unlawful for any person to allow his or her dog to be on school grounds or public recreation areas when people are present unless such a dog is on a leash and under the immediate control of a responsible person.]~~

(c) A violation of this Section shall be a Class G municipal infraction subject to the penalty prescribed in Chapter X of this Code of Ordinances.

SECTION 7-503

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-503, "Control of Vicious Animals", be repealed, re-enacted and amended to read as follows:

Section 7-503. [~~Control of Vicious Animals~~] **CONTROL OF ANIMALS IN PUBLIC SPACES, SCHOOL GROUNDS, AND RECREATIONAL AREAS**

~~[(a) It shall be unlawful for any person to let any vicious or dangerous animal out of secure confinement within his or her residence unless such animal is muzzled, leashed and under the immediate control of a responsible person.]~~

(A) ANY DOG IS AT LARGE IF IT IS OUTSIDE THE OWNER'S PREMISES AND NOT LEASHED, UNLESS IT IS A SERVICE DOG, IS IN A DOG EXERCISE AREA DESIGNATED BY THE

CAPS

[Brackets]

Asterisks * * *

CAPS

[Brackets]

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

: Indicate matter added in amendment

: Indicate matter deleted in amendment

TOWN OR THE MARYLAND NATIONAL CAPITAL PARK AND PLANNING COMMISSION, OR IS PARTICIPATING IN AN APPROVED ACTIVITY.

~~[(b) A violation of this Section shall be enforced by Montgomery County Police.]~~

(B) ANY OTHER ANIMAL (I.E. CAT, LIVESTOCK, OR ANIMAL) IS AT LARGE IF IT IS OUTSIDE THE OWNER'S PREMISES AND NOT LEASHED OR IMMEDIATELY RESPONSIVE TO VERBAL OR NON-VERBAL DIRECTION.

(C) THE COMMON AREA OF A HOMEOWNER'S ASSOCIATION, CONDOMINIUM OR COOPERATIVE IS NOT THE OWNER'S PREMISES.

(D) AN OWNER MUST NOT ALLOW A DOG TO BE ON PUBLIC SCHOOL GROUNDS ON A DAY WHEN SCHOOL IS IN SESSION, OR IN A PUBLIC RECREATION AREA (I.E. TOWN PARK) DURING AN ORGANIZED ACTIVITY, UNLESS THE DOG IS CONTROLLED BY A LEASH OR SIMILAR RESTRAINING DEVICE. THIS DOES NOT APPLY IF THE DOG IS PARTICIPATING IN AN ACTIVITY SUCH AS OBEDIENCE OR AGILITY TRAINING IF THE OWNER OR SPONSOR OF THE ACTIVITY HAS PERMISSION FROM THE TOWN OR CONTROLLING AGENCY OF THE SCHOOL OR RECREATION AREA. This is County law. I believe we should remove the language pertaining to dogs participating in an activity with the permission of the Town.

(E) A VIOLATION OF THIS SECTION MAY BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

(F) THE TOWN OF KENSINGTON RESERVES THE RIGHT TO ISSUE A VIOLATION OF THIS SECTION AS A CLASS G MUNICIPAL INFRACTION SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.

SECTION 7-504

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-504, "Unwanted Contact", be and is hereby enacted to read as follows:

SECTION 7-504. UNWANTED CONTACT

(A) THE PET OWNER MUST PREVENT UNWELCOME OR UNSOLICITED THREATENING PHYSICAL CONTACT OR CLOSE PROXIMITY TO A PERSON OR DOMESTIC ANIMAL THAT OCCURS OUTSIDE THE OWNER'S PROPERTY THAT MAY CAUSE ALARM IN A

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REASONABLE PERSON, SUCH AS BITING, CHASING, TRACKING, INHIBITING MOVEMENT, OR JUMPING.

(B) A VIOLATION OF THIS SECTION MAY BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

(C) THE TOWN OF KENSINGTON RESERVES THE RIGHT TO ISSUE A VIOLATION OF THIS SECTION AS A CLASS A MUNICIPAL INFRACTION SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.

SECTION 7-505

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-505, "Animal Noise", be and is hereby enacted to read as follows:

SECTION 7-505. ANIMAL NOISE

(A) AN OWNER MUST NOT ALLOW AN ANIMAL TO CAUSE NOISE THAT IS LOUD ENOUGH AND PERSISTENT ENOUGH TO DISTURB ANOTHER PERSON'S QUIET ENJOYMENT.

(B) A VIOLATION OF THIS SECTION SHALL BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

SECTION 7-506

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that Chapter VII, "Public Health, Safety, and Conduct", Article 5, "Animals", Section 7-506, "Dangerous Animals", be and is hereby enacted to read as follows:

SECTION 7-506. DANGEROUS ANIMALS

(A) AN ANIMAL WILL BE DEEMED DANGEROUS BY THE ANIMAL MATTERS HEARING BOARD (MONTGOMERY COUNTY) IF IT HAS WITHOUT PROVOCATION KILLED OR INFLECTED SEVERE INJURY ON A PERSON; IF IT POSES A PHYSICAL THREAT TO HUMANS BECAUSE OF SPECIFIC TRAINING OR DEMONSTRATED BEHAVIOR; OR IF ITS BITE IS POISOUNOUS.

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(B) ANIMALS WHICH HAVE BEEN DEEMED TO BE DANGEROUS MUST BE KEPT CONFINED IN A SECURE ENCLOSURE TO PREVENT DIRECT CONTACT WITH HUMANS OR OTHER ANIMALS, AND MUST BE LEASHED AND MUZZLED, AND UNDER THE CONTROL OF A PERSON AT LEAST 18 YEARS WHO IS PHYSICALLY ABLE TO RESTRAIN THE ANIMAL ANY TIME IT IS REMOVED FROM THE OWNER’S PROPERTY.

(C) A VIOLATION OF THIS SECTION SHALL BE ENFORCED BY THE MONTGOMERY COUNTY POLICE.

SECTION 7-507

AND BE IT FURTHER ORDAINED AND ORDERED this ____ day of December, 2019, the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, “Powers of the Council”, Section 601, “General Powers” of the Town Charter that Chapter VII, “Public Health, Safety, and Conduct”, Article 5, “Animals”, Section 7-507, “Dog Exercise Area”, be and is hereby enacted to read as follows:

SECTION 7-506. DOG EXERCISE AREA

(A) THE MAYOR AND TOWN COUNCIL MAY ESTABLISH A DOG EXERVISE AREA IN THE TOWN. THE FOLLOWING REQUIREMENTS APPLY TO ANY DOG EXERCISE AREA SO ESTABLISHED.

(1) ALL DOG OWNERS/HANDLERS MUST COMPLY WITH THESE RULES AND REGULATIONS AT ALL TIMES WHEN ACCESSING THE DOG EXERCISE AREA.

(2) ALL DOGS MUST BE ACCOMPANIED BY RESPONSIBLE OWNERS/HANDLERS WHO ARE PHYSICALLY ABLE TO EXERCISE EFFECTIVE RESTRAINT OF THE DOG(S), AND WHO WILL RESTRAIN THEIR DOGS IF NECESSARY.

(3) OWNERS/HANDLERS MUST REMAIN IN THE DOG EXERCISE AREA WITH THEIR DOGS AND MUST KEEP THEIR DOGS IN SIGHT AND UNDER THEIR CONTROL AT ALL TIMES.

(4) PLEASE OBSERVE THE DOG EXERCISE AREA HOURS OF OPERATION, WHICH ARE DAWN TO DUSK DAILY. NO PERSON SHALL USE THE FACILITY OTHER THAN DURING THE TOWN’S DESIGNATED HOURS OF USAGE.

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(5) INDIVIDUAL OWNERS/HANDLERS MAY BRING NO MORE THAN TWO (2) DOGS INTO THE DOG EXERCISE AREA AT ANY ONE TIME.

(6) OWNERS/HANDLERS MUST IMMEDIATELY LEASH AND REMOVE FROM THE DOG EXERCISE AREA ANY DOG SHOWING AGGRESSION TOWARDS PEOPLE OR OTHER DOGS. DOGS WITH A KNOWN HISTORY OF AGGRESSIVE OR DANGEROUS BEHAVIOR AND/OR DOGS THAT HAVE BEEN DEEMED “POTENTIALLY DANGEROUS” OR “DANGEROUS” BY ANY STATE, COUNTY OR TOWN ARE PROHIBITED AND ARE NOT PERMITTED TO ENTER THE DOG EXERCISE AREA.

(7) ALL DOGS 6 MONTHS OR OLDER MUST BE SPRAYED/NEUTERED

(8) ANY DOG WITH A TRANSMISSIBLE, COMMUNICABLE DISEASE MAY NOT ENTER THE DOG EXERCISE AREA.

(9) ALL DOGS ENTERING THE DOG EXERCISE AREA MUST BE CURRENTLY LICENSED BY AN AUTHORIZED JURISDICTION AND MUST BE CURRENTLY VACCINATED AGAINST THE RABIES VIRUS. ALL DOGS ARE REQUIRED TO WEAR A CURRENT RABIES VACCINATION TAG WHEN USING THE FACILITY.

(10) PUPPIES USING THE DOG EXERCISE AREA MUST BE FOUR (4) MONTHS OF AGE OR OLDER.

(11) DOGS MUST BE IMMEDIATELY LEASHED AND RESTRAINED WHEN ADVISED TO DO SO BY A TOWN STAFF /CODE ENFORCEMENT OFFICER, AND ANY PERSON AND THEIR DOG MUST LEAVE THE DOG EXERCISE AREA WHEN ORDERED TO DO SO BY A TOWN STAFF MEMBER/CODE OFFICER.

(12) EATING, SMOKING OR VAPING ARE NOT PERMITTED INSIDE THE DOG EXERCISE AREA.

(13) NO DOG FOOD TREATS OR TOYS, EXCEPT TENNIS BALLS, ARE PERMITTED IN THE DOG EXERCISE AREA.

(14) NO BARE FEET ARE PERMITTED IN THE DOG EXERCISE AREA.

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(15) OWNERS/HANDLERS SHALL CARRY A LEASH AT ALL TIMES, AND DOGS MUST BE LEASHED WHEN ENTERING AND LEAVING THE DOG EXERCISE AREA. "SPIKED" DOG COLLARS ARE NOT PERMITTED INSIDE THE DOG EXERCISE AREA.

(16) OWNERS/HANDLERS ARE LEGALLY RESPONSIBLE FOR THE BEHAVIOR OF THEIR DOGS AND REMAIN LEGALLY RESPONSIBLE FOR ANY INJURIES OR DAMAGE CAUSED BY THEIR DOGS.

(17) OWNERS/HANDLERS ARE RESPONSIBLE FOR SECURELY CLOSING AND LATCHING ALL GATES AS THEY ENTER OR EXIT THE DOG EXERCISE AREA.

(18) OWNERS/HANDLERS MUST PICK UP AND PROPERLY DISPOSE OF THEIR DOG'S FECES. DISPOSAL BAGS ARE PROVIDED FOR THIS PURPOSE.

(19) DOGS MUST NOT BE ALLOWED TO DIG. ANY HOLES CREATED BY A DOG SHALL BE IMMEDIATELY CORRECTED AND FILLED BY THE DOG'S OWNER/HANDLER.

(20) CHILDREN UNDER THE AGE OF ELEVEN (11) MUST BE ACCOMPANIED AT ALL TIMES BY A RESPONSIBLE ADULT WHO WILL BE ACCOUNTABLE FOR THE BEHAVIOR AND WELLBEING OF THE CHILD. CHILDREN SHOULD BE DISCOURAGED FROM APPROACHING OR PLAYING WITH UNFAMILIAR DOGS.

(21) OWNERS/HANDLERS ARE NOT PERMITTED TO GROOM OR BATHE THEIR DOGS INSIDE THE DOG EXERCISE AREA.

(22) PROFESSIONAL DOG SERVICES SUCH AS, BUT NOT LIMITED TO, TRAINING, BEHAVIOR MODIFICATION AND GROOMING ARE PROHIBITED INSIDE THE DOG EXERCISE AREA.

(23) UPON A FINDING THAT A DOG IS DANGEROUS, POTENTIALLY DANGEROUS OR A PUBLIC NUISANCE AS DEFINED IN CHAPTER 5 OF THE MONTGOMERY COUNTY CODE, OR THAT A DOG HAS BITTEN A PERSON OR ANOTHER DOG WITHOUT PROVOCATION, THE TOWN MAY BAN THE DOG FROM ACCESSING

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THE DOG EXERCISE AREA. APPEALS FROM THAT FINDING WILL BE MADE TO THE TOWN MANAGER.

(B) A VIOLATION OF THIS SECTION SHALL BE A CLASS G MUNICIPAL INFRACTION SUBJECT TO THE PENALTY PRESCRIBED IN CHAPTER X OF THIS CODE OF ORDINANCES.

AND BE IT FURTHER ORDAINED AND ORDERED, this ____ day of December, 2019, by the Mayor and Town Council of Kensington, acting under and by virtue of the authority granted to it by §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, and Article VI, "Powers of the Council", Section 601, "General Powers" of the Town Charter that:

(1) If any part of provision of this ordinance is declared by a court of competent jurisdiction to be invalid, the part of provision held to be invalid shall not affect the validity of the ordinance as a whole or any remaining part thereof; and

(2) This ordinance shall take effect on the ____ day of December, 2019, provided the following:

(a) Posted at Town Hall by the next business day following introduction; and

(b) Posted on the official Town website; and

(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.

INTRODUCED by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the ____ day of November, 2019.

ADOPTED by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the ____ day of December, 2019.

EFFECTIVE the ____ day of December. 2019.

ATTEST:

TOWN OF KENSINGTON, MARYLAND

By: _____

Susan C. Engels, Clerk – Treasurer

Tracey C. Furman, Mayor

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APPROVED AS TO FORM:

Suellen M. Ferguson, Town Attorney

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