

Mayor Tracey Furman

**Council Member Darin Bartram
Council Member Nate Engle**



**Council Member Conor Crimmins
Council Member Bridget Hill-Zayat**

Released: December 11, 2020

**Monday, December 14, 2020
Town Council Meeting, 7:00 pm**

The Town Council Meeting will be held through the Zoom Video Conferencing application. We recommend downloading the Zoom app prior to the meeting at the following link: www.zoom.us

The Council Meeting will begin at 7:00 pm and access to the meeting will be through the following Zoom Video Conferencing link:

<https://us02web.zoom.us/j/82727954963?pwd=c01sbytQdUIBSWIRT3VkUXRzcFNBZz09>

Meeting ID: 827 2795 4963

Password: 517158

Or you may join the meeting by calling: +1 301 715 8592 US (Washington D.C) and entering the Meeting ID and Password above.

CALL TO ORDER

MOMENT OF SILENCE

APPROVAL OF MINUTES

Town Council Meeting Minutes of November 9, 2020

FROM THE MAYOR AND TOWN COUNCIL

1. **3906/3910 Knowles Avenue (Knowles Manor Senior Housing)** – Update from the November 30, 2020 meeting with Montgomery Planning, which discussed Site Plan Amendment No. 820190080A, and the location of the proposed lay-by lane in front of Knowles Manor Senior Housing.
2. **Thrive Montgomery 2050** – Update from the December 8, 2020 meeting with Montgomery Parks, which discussed Thrive Montgomery 2050 with County Planning Chair Casey Anderson and Planning Director Gwen Wright.

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

3. **Police Reform Legislation** – Discuss endorsing a letter by municipalities within Montgomery County requesting that the Maryland State Legislature adopt legislation, to include the following:
 - a. Repeal in full of the Law Enforcement Officers’ Bill of Rights;
 - b. Reform the Public Information Act to allow disclosure over all complaints of police misconduct; and
 - c. Enact a statewide use of force policy that prohibits officers from using force unless it is absolutely necessary and allowing both criminal penalties and civil remedies.
4. **PEPCO Rate Case Filing** – Update on the Town’s Petition to Intervene on PEPCO’s proposed rate increase (Case 9655); and discuss the Town’s streetlighting options with respect to the proposed rate increase.

FROM THE TOWN MANAGER AND STAFF

1. **Housing and Building Code Amendments** – Discuss possible amendments to Chapter V, “Housing and Building Regulations”, of the Town code, to include the following:
 - a. Define screening and fence like structures and regulate the location and size of certain structures within the front plane of a residential property.
 - b. Define certain projections within the County’s setback encroachments and limit the maximum façade coverage for all encroachments.
2. **Ordinance No. O-01-2021** – An Ordinance of the Mayor and Council of the Town of Kensington Amending Chapter 2, “Government and Administration”, Article 2, “Elections”, Section 2-201, “General Voter Registration”, Section 2-202, “Distribution of Absentee Ballots”, Section 2-203, “Procedures of Absentee Voting”, and Section 2-204, “Canvassing of Absentee Ballots” of the Town Code to delete any requirement that a voter provide a reason for voting by Absentee Ballot and to delete an invalid provision with respect to eliminating voters from the supplemental list.
 - a. *Ordinance No. O-01-2021 corresponds with Charter Resolution No. CR-01-2020 and will be introduced at the January 11, 2021 Town Council Meeting.*

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. **Charter Resolution No. CR-01-2020** – Introduction of a Charter Resolution of the Mayor and Council of the Town of Kensington Amending Article VII, “Registration, Nominations and Election”, Section 703, “Removal”, Section 704, “Duties”, Section 705, “Notice of Elections”, Section 706, “Appeal of the Actions of the Board of Supervisors of Elections”, Section 707, “Registration”, Section 708, “Nominations”, Section 709, “Election of the Mayor and the Council Members”, Section 710, “Conduct of Elections”, and Section 712, “Vote Count”, to make provisions for resolving a Tie Vote, remove an invalid provision with respect to eliminating Voters from the Supplemental List, provide that no Election will be held and the qualified Candidates will be Declared Elected by the Supervisors of Elections if the number of qualified Candidates is not more than the number of seats to be filled,

change how Notice of Elections is given, to allow for Publication in the Town Journal and posting to the Town's website, any Town Listserv, and at Town Hall, limit Appeals of Supervisors of Elections decisions to Candidates and other qualified voters and set a time limit, extend the deadline to qualify as a Candidate to the third Monday in May in the event that no Candidate has timely filed for an office, clarify that qualifications for office are determined at the time of filing of the Certificate of Nomination, allow the Council by Resolution in an Emergency to postpone an Election until such time as it can be safely held, and to make other changes, allow the Council by Resolution to Authorize vote by mail, and allow placement of drop boxes for receipt of ballots.

a. The Public Hearing will be set for Monday, January 11, 2021, 7:00 pm.

2. **Ordinance No. O-03-2020** – Introduction of an Ordinance of the Mayor and Town Council of Kensington to Amend Chapter VIII, "Health and Environmental Regulations", by Enacting Article 9, "Pesticides", to incorporate Chapter 33B, of the Montgomery County Code entitled "Pesticides", which contains various provisions to protect the health of the public and to make conforming changes.

a. The Public Hearing will be set for Monday, January 11, 2021, 7:00 pm.

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, January 11, 2021, 7:00 pm

Community Coalition Letter on Thrive Montgomery 2050

Brookdale, Chevy Chase Village, Chevy Chase West Neighborhood Association, Drummond, Edgemoor Citizens Association, Kenwood Citizens Association, Kenwood Condominium, Kenwood Forest II, Kenwood House Cooperative, Little Falls Place, Somerset House Condominiums, Sumner Village, Town of Chevy Chase, Town of Chevy Chase View, Town of Garrett Park, Town of Glen Echo, Town of Kensington, Town of Laytonsville, Town of Somerset, Village of Chevy Chase Section 3, Village of Chevy Chase Section 5, Village of Friendship Heights, Village of North Chevy Chase, Westbard Mews, Westmoreland, Westwood Mews, Wood Acres.

November 17, 2020

Mr. Casey Anderson, Chair,
and Members of the County Planning Board
Montgomery County Planning Board
2425 Reddie Drive, 14th Floor
Wheaton, MD 20902

Dear Chair Anderson and Members of the Planning Board:

On behalf of the 27 undersigned incorporated municipalities and community organizations that represent over 33,000 Montgomery County residents, we write to provide comments on the proposed Thrive Montgomery 2050 Plan (the “Plan”), a transformational proposal that will impact all residents, business owners and employees, regional commuters, and visitors for decades to come. We support many of the principles that the Plan espouses, including equity, affordability, attainability, inclusiveness, social connections, environmental sustainability, green space, parks, and walkable communities, which will help our County grow and “thrive” under the guidance of an innovative and responsible Plan, and appreciate the hard work that the Planning Board and planning staff have put into its development. Before the Planning Board approves a Plan for consideration by the County Council to adopt for use by commercial and residential developers as the basis for large-scale community development projects and tax abatement strategies, we strongly recommend that careful attention be paid to and revisions be made based on the suggestions, concerns, and questions outlined in this letter, which reflect considerable community input and discussion.

As discussed in greater detail below, in order to be a living Plan for the County’s future, the draft Plan needs to reflect, analyze, and factor in the changed realities of living and working that have been highlighted by the COVID-19 pandemic this year. Among the changes are the new and greater technology and community needs during this time. The draft Plan should take these new realities into account, design for the likelihood that the County’s budget will be severely constrained for some years to come, and a 5-year review should be conducted in order to document the lasting impacts stemming from the pandemic.

The draft Plan should also reflect the diversity of communities and neighborhoods that exist throughout the County by defining the different ways in which different types of neighborhoods

can achieve the goals of Complete Communities. Montgomery County is not “one size fits all,” and the draft Plan should recognize the County’s differences by establishing separate parameters for determining what is a “Complete Community” in the urban, suburban, and rural parts of the County.

Also critical to the success of the Plan is making sure that residents fully support the Plan, and that changes and goals are implemented in a manner compatible with the features and characteristics of local neighborhoods that communities cherish. For these reasons we recommend that the draft Plan expressly recognize and state that local municipalities continue to retain regulatory authority over building regulations for all types of residential housing within their jurisdictions, including Missing Middle housing and that unincorporated neighborhoods have a real say about the physical changes that are made within their boundaries.

As leaders of the undersigned local governments and community organizations, we feel at a disadvantage to comment publicly given that the *Working Draft* of Thrive Montgomery 2050 is undergoing substantive changes. In the spirit of transparency, we would like to see the red-lined revisions of the draft and reserve the right to make further comments after review.

High-Level Executive Summary of Suggestions & Concerns

- I. **Complete Communities:** we were pleased to see that the draft Plan considered Complete Communities but the inclusion of a map that spotlights which or what proportion of urban, suburban and rural communities are to become Complete Communities replete with Missing Middle housing would be helpful; additionally, there is a paucity of relevant national best practices, omission of any description as to how both incorporated and unincorporated communities will be a part of the redevelopment process that recognizes building and setback authority, a disconnect with MCPS’ plans for larger or magnet schools, and a lack of defined minimum amenities and metrics for determining a successful Complete Community with adequate public facilities, green space, transit infrastructure, and affordable housing. In short, the concept of, location of, and metrics for Complete Communities is incomplete.

- II. **Financing Capacity:** as stated, there is a lack of acknowledgement of COVID-19’s impact on our economy, public revenue deficits, transit use changes, work preferences and lifestyle; in addition, there appears to be an unsupported premise that increased Missing Middle housing stock creates Complete Communities and no attempt in giving equal weight to the importance of job creation, transit, and housing; furthermore, there is a glaring omission of strategies for how public revenue will substantially increase in order to fund decentralized public facilities, small local schools, and transit infrastructure

projects, and a dearth of strategies that attract new industries, companies and small businesses to the County.

- III. **Housing Affordability:** we encourage the County to consider increasing and diversifying areas for Missing Middle housing as well as provide more housing for essential workers and leverage naturally occurring affordable housing options including adaptive re-use of malls and other retail/office buildings which post COVID-19 may no longer be viable for their original and intended use; however the premise that we will need to house 200,000 more residents is based on pre-COVID-19 assumptions and providing Missing Middle housing is not ipso facto affordable.
- IV. **Transportation Access:** we encourage the County to develop a broader approach focused on BRT, specify how transit-centric transportation will be staged given COVID-19 realities, flexibly plan for traffic and technology advancements, integrate with other regional transportation plans, and accommodate demographics including aging, disabled, and young families that cannot use public transit; also, coordination with MDOT will be essential along with the recognition that County residents and visitors will use their cars.
- V. **Public Facility Implementation Plans:** the draft Plan will be expensive to implement so the County should specify payment plans for public facilities, pay more attention to how existing disadvantaged and low-income communities specifically will gain better access to transit and other amenities, coordinate with MCPS, Police and Fire & Rescue, and build in equity so that Complete Communities are available throughout the entire County.
- VI. **General Implementation Plan:** utilize Master & Sector Plans for implementation as well as design excellence standards; and update the Implementation Plan so that it reflects the realities of COVID-19.

Appendices A and B with some requests and questions.

Detailed Suggestions, Concerns & Questions for Improving Thrive Montgomery 2050

I. Complete Communities

A major goal of the draft Plan is to move the County towards a network of Complete Communities. The brief description on page 52 of this major draft Plan component is inadequate and incomplete. Residents cannot give feedback on this major component of the draft Plan without a more concrete idea of what constitutes a Complete Community, whether they live in it or help to finance it through their taxes.

While the draft Plan does name Kensington as an example of a suburban Complete Community, there are no corresponding examples of urban or rural Complete Communities. In addition to providing more specifics about each type of Complete Community, it would be very helpful for the draft Plan to provide some additional examples of urban, suburban, and rural communities in the County that are close to being Complete Communities. It would also be helpful to include examples from elsewhere in the United States of how this concept has been applied and how effective it has been, particularly as applied to a county rather than just to a city. As a result of these gaps, the Goals, Policies, and Actions related to Complete Communities fail to answer many questions about how the goals will be achieved.

We recommend that more detailed information about Complete Communities be added to the draft Plan. Some of our specific suggestions follow:

1. **Provide a Map.** The draft Plan should contain information about the geographic location of the three types of Complete Communities. Specifically,
 - provide a map that shows in which parts of the County the urban, suburban, and rural Complete Communities will be located; and
 - clarify whether or not Complete Communities will be located in the Agricultural Reserve.Some information about key physical characteristics of each type of Complete Community should also be provided (e.g., ranges of acreage, desired population size and density, types of housing units and numbers of housing units per acre, mix of uses, amounts of and access to natural green space).
2. **Define Three Types of Complete Communities.** The Goals, Policies, and Actions for Complete Communities should describe what is required to be present in each of the three types of Complete Communities as well as how those areas of the County that will not be part of a Complete Community will be served.

Many of the Goals, Policies, and Actions relating to Complete Communities are written generally to apply to the entire County; as a result, as presented, they are unrealistic and effectively require considerably more effort and costs. For example, consider, “Policy 1.1.1: ...Every resident should have the opportunity to live, work, play, exercise, shop, learn, and make use of public amenities and services within a 15-minute walk or bike ride.” While this policy may be attainable in certain specific areas of the County, it is not feasible or possible for all parts of the County.

3. **Recognize Local Input and Building Authority.** We strongly urge that a policy be added to the draft Plan that gives residents a real role in decisions about changes to the physical characteristics of their neighborhood. There should be another policy that recognizes municipalities’ regulatory authority over various physical characteristics of residential

buildings within their borders. Neighborhoods and municipalities recognize that creation of complete communities will bring some changes to their neighborhoods and that Missing Middle Housing is needed in the County. However, the planning process must be inclusive and engage all residents in decision making about the future of their communities.

The draft Plan acknowledges that moving the County's land use pattern away from suburban sprawl towards potentially more resilient and efficient Complete Communities will require additional density and other changes to existing single-family neighborhoods. It recognizes that to make these changes, resident support will be *needed*.

Residents of both unincorporated communities and incorporated municipalities share concerns about maintaining the physical aspects of their neighborhoods that make them suitable for and attractive to an economically, racially, and ethnically diverse range of potential residents. These aspects include:

- continuation of regulatory authority to adopt ordinances as continuation of existing standards for lot coverage, setbacks, height, conformance to current compatibility requirements for development of non-single-family properties confronting, abutting, and adjacent to properties zoned for single-family residences;
- community-appropriate densities and heights for any building types new to existing single-family communities;
- green space and tree canopy;
- private and/or public areas for recreation;
- limited traffic and safe streets; and
- adequate parking.

The incorporated municipalities, which have regulatory authority over various physical characteristics of their neighborhoods (e.g., setbacks, height, mass, fences, walls, right of ways, residential parking, etc.) seek recognition in the Plan of the appropriateness and continuation of this authority for all residential housing including Missing Middle Housing types discussed in the draft Plan.

In addition, there needs to be a policy in place so that both unincorporated communities and incorporated municipalities are involved in discussions and have a real say about the inclusion of commercial entities within their borders.

Giving residents control over these aspects of the proposed infill development would not interfere with the goals of the Plan -- proponents of Missing Middle Housing state that this housing can be designed and applied in communities so that it is entirely compatible with existing buildings and not really noticeable. Local authority over these aspects would be consistent with these goals.

4. **Define Amenities and Features of Each Type of Complete Community.** The draft Plan should spell out the minimal basic and specialized services and amenities that each of the three types of Complete Communities (urban, suburban, and rural) should contain.
5. **Define Metrics.** The draft Plan should include a policy requiring development of metrics, designed to identify time frames, actions, and results, for each type of Complete Community so that we know what we are striving to achieve, when we have achieved it, and the consequences for not achieving it.
6. **Prioritize Green Space.** The draft Plan should include a policy which requires that Complete Communities have access to nearby natural green space (i.e., no artificial turf and wherever possible unchanged natural landscape).

The draft Plan suggests that residents of Complete Communities should have access to nearby green space but does not have a policy or action item to achieve this goal and does not address the minimum size of such space within rural, suburban, and urban areas. We believe that access to natural green space and the incorporation of a robust tree canopy is important to residents' health and quality of life, even more so as neighborhoods become denser in the process of creating Complete Communities.

7. **Assist Small Businesses.** The draft Plan should acknowledge the need to make sure small businesses can afford to start, operate, and remain in the community as those communities redevelop.

Complete Communities intend to provide residents with access to everything they need. As redevelopment and infill development occurs, affordable retail space is likely to be lost, and with it the small businesses that provide the goods and services needed for daily living. Retention of existing small businesses and establishment of new small businesses will be important in both economically disadvantaged areas and affluent areas. \

The need to retain small businesses and to attract new small businesses may come into conflict with some of the financing measures being considered such as split-rate taxing.

8. **Retain Historic Preservation.** The draft Plan should include a policy that requires that historic designations for commercial and residential properties located in Complete Communities will continue under current Historic Preservation laws and rules.
9. **Change 15-minute Living.** Consider modifying the definition of 15-minute living.

Fifteen-minute living figures prominently throughout the draft Plan as a benefit of achieving Complete Communities. However, many areas of the County cannot realistically expect to

experience this ill-defined concept. Also, the draft Plan is unclear as to whether it means a 15-minute walk, cycle, complete transit ride, or car trip, and how this concept can be applied to rural, suburban, and urban Complete Communities (this is one area where examples could be quite helpful). Perhaps, given the lack of general applicability of 15-minute living across the County and the disconnect between a 15-minute walk, a 15-minute bike ride, 15-minute transit ride, or a 15-minute car ride, the concept of 15-minute living should be changed, and the goals, policies, and actions framed solely in terms of Complete Communities. The 15-minute living slogan is catchy but does not really work for the County as a whole.

10. **Integrate Environmental Sustainability**. The draft Plan does not integrate the goals of infill development and environmentally sustainable development. We recommend that this integration, with metrics, be fleshed out fully to support the County's goal of climate resilience.

11. **Update Infrastructure Policy**. A policy should be added to the draft Plan regarding the need for updated infrastructure in each instance infill development is occurring.

Policy 6.2.4 calls for infrastructure improvements to meet climate change challenges. But the draft Plan lacks a policy that calls for infrastructure improvements to meet added demands placed by infill development on water/sewer lines, electrical lines, communications facilities, stormwater capacity, and other critical infrastructure needs for communities.

II. Financing Capacity

A major flaw of the draft Plan is the sparse attention it gives to how the County will thrive economically and how it will pay for the improvements proposed in the draft Plan, given that increasing housing stock does not, in and of itself, lead to job growth or result in a healthier business climate.

While the draft Plan lists the County's sluggish economic growth as its 8th top challenge, it is concerning that the draft Plan does not address finances and the economic feasibility of the proposals, especially given the high infrastructure costs and lack of financing strategies associated with the draft Plan and in light of the budget shortfalls the County is likely to face for some years due to COVID-19.

The effects of Complete Communities on the County's economic health are uncertain and unproven given the lack of success stories both regionally and nationally. We recommend that greater attention be paid in the draft Plan toward the creation of incentives and other conditions for economic resilience, job creation, and industry diversification.

Our specific concerns about the financial elements of the draft Plan follow:

1. **Prioritize Economic Growth.** The draft Plan should recognize economic growth as one of the County's top challenges.

The county's sluggish economic growth should be listed in the draft Plan as, at least, one of the top 3 challenges the County is facing and job creation should be included as one of the major goals because good paying jobs will be significant in addressing the County's economic inequities.

2. **Consider Economic Resiliency.** Factors that affect the county's economic health and resilience should be considered when developing the draft Plan's Goals, Policies, and Actions.

The draft Plan notes that between 2004 and 2019 the number of jobs in the County grew by 5 percent, whereas the job growth in 20 similarly sized counties (defined as those ranking closest to Montgomery County in total number of jobs in 2004) during this period averaged 21 percent (page 22). The factors that led to the much greater economic growth in these 20 counties should be investigated and the draft Plan examined against those conditions to be sure that its Goals, Policies, and Actions reflect them.

The draft Plan should include Goals, Policies, and Actions that collectively create conditions that improve the County's economic resilience and diversity and enable the County to thrive and compete in the 21st century. The County needs to attract new industries and companies as well as retain those it already has. Potential new industries could include green manufacturing, healthcare technologies, agritourism.

3. **Add Financing Strategies.** We recommend that the draft Plan include high-level fiscal analyses or associated financing and investment strategies that address how amenities will be added to all communities around the County so that they become Complete Communities.
4. **Share the Costs Between Developers & Residents.** The draft Plan should indicate how the costs of achieving the goals of the Plan will be shared between developers and residents.

Constructing Complete Communities will put a great burden on the public treasury to provide (duplicative but equitable) public facilities for all communities. It is unclear where the vast sums that will be needed to fund the many capital improvement projects called for in the draft Plan will come from.

It is equally unclear how the burden of these costs will be shared between developers, commercial interests and residents. For example, the draft Plan should be clear on whether split-rate financing would apply to single-family properties rezoned for multifamily and/or commercial use. Given the reduced impact taxes and increased recordation taxes to be implemented in the 2020-2024 County Growth and Infrastructure Policy and the sparse detail in the draft Plan about increased recordation taxes and split-rate taxes for underutilized properties, we are concerned that too much of the costs will be imposed upon residents, especially those who would be potentially paying a value added tax on homes that are their primary residences.

III. Housing Affordability

A major goal of the draft Plan is increasing the amount of housing in the County: its target is to locate “at least 75 percent of new housing in mixed use centers near rail and BRT” (page 75), and to increase the County’s stock of affordable housing by introducing Missing Middle Housing into single-family neighborhoods within a half mile of rail stations and BRT lines. Given the high land values around transit, we recommend that the draft Plan expand the areas for which Missing Middle Housing can be introduced as well as repurposing certain commercial properties to provide affordable housing.

1. **Increase and Diversify Areas for Missing Middle Housing.** We recommend that the draft Plan increase and diversify the areas where Missing Middle Housing could be located. The draft Plan’s focus on putting infill development in existing neighborhoods within one-half mile of rail stations and BRT routes is too narrow and, in most places, the land is expensive, which may not achieve the stated goals. Putting Missing Middle Housing in these neighborhoods is likely to result in some additional housing if the market finds it profitable to build this type of housing there, but it is highly unlikely that the new market-rate housing units will be affordable or attainable by the income cohorts that the Plan seeks to help. Land within a half-mile proximity to primary public transit (Metro, BRT, Purple Line) in many neighborhoods is so expensive in Montgomery County today that the new housing will not even be affordable for families with moderate incomes. Allowing Missing Middle Housing in neighborhoods that are accessible via other public transit (e.g., Ride On bus and other bus routes on non-BRT routes) could produce additional housing that is far more realistically affordable. This change and expansion of focus and criteria would benefit underserved and disadvantaged communities and populations as the County’s housing stock overall is diversified in an upward direction. Additionally, expanding transit services in these neighborhoods seems desirable from an equity standpoint, will make them more attractive communities, and could result in increased investments there.

2. **Provide Housing for Essential Workers.** We recommend that the draft Plan add a policy and action item of providing convenient and affordable housing for public and other essential workers who provide essential services to communities. Our teachers, fire fighters, police, and others who directly contribute to the community as well as for other essential workers whose incomes are inadequate for most housing in the County (e.g., grocery workers, trash collectors) need to be able to afford housing near their workplaces.

3. **Leverage Naturally Occurring Affordable Housing.** The draft Plan should include some Goals, Policies, and Actions regarding naturally occurring affordable housing and adaptive rehousing.

The draft Plan focuses on creating new housing without adequately considering retaining naturally occurring affordable housing (including possible upgrades to older housing) and repurposing of non-residential properties (COVID-19 has made this particularly relevant). Further analysis should be done to determine current and potential future naturally occurring affordable housing, structural and system (wiring, plumbing, etc.) lifespans, and cost of retrofitting to extend the lifespan of existing structures.

This focus and review would give a better picture of the need for newly built housing, as well as data regarding what such housing would cost renters and buyers. Critically, one likely effect of the COVID-19 pandemic is diminished demand for commercial properties with a greater demand for suburban residential homes; converting certain of the commercial structures to residences, schools, or other public amenities, including co-located uses, should be analyzed as part of Thrive Montgomery.

IV. Transportation Access

A major goal of the draft Plan is to change the culture and use of County transportation modes, by getting people out of cars and instead focusing on mass transit and walkability. This set of goals underpins many of the recommendations in other parts of the draft Plan, such as Complete Communities. This ambitious goal, while laudable in some respects, does not recognize the substantive disconnect between the County's current transit infrastructure and the transportation network that would be needed to realize this goal. The draft Plan's focus is both unrealistic, not consistent with the transportation realities of other parts of the DMV, and not appropriate or equitable for many County businesses and residents.

We recommend that the draft Plan's transportation goals and policies be significantly revised to more realistically consider alternative transit options and substantially increase attention to traffic and future flexibility. Some of our specific suggestions follow. We believe that the Plan should:

1. **Focus on Developing Transit but with a Broader Approach.** The draft Plan focuses on improving mass transit through adding bus rapid transit (BRT) routes and to a lesser degree rail service. Other forms of transit should be considered and incorporated.
2. **Specify How an Evolution from Car-centric Transportation to Transit-centric Transportation Will be Staged and Managed.** The draft Plan does not adequately consider interim stages between the County's transportation situation as it exists now and as it may become over time. This evolution and its timing for items such as sidewalk and bicycle route installations or improvements as well as ADUs and infill development's demand for on-street parking are of particular interest given the large investment of public funds that would be needed and the uncertainties in obtaining funding.
3. **Continue to Plan for Traffic.** The proposed BRT and rail options, even when added to existing Metro and bus lines (and the future Purple Line and planned BRT routes), will not create a transit network sufficient to get most County residents out of cars and hence to reduce traffic. The County's size, current settlement patterns, diverse population, and demographics require continued planning for vehicles and traffic, and the draft Plan should include strategies to do so. The County must maintain policy goals that include the realities of vehicular mobility and support acceptable motor vehicle levels of service. Traffic impacts everyone and planning for motor vehicle traffic still matters. The draft Plan now ignores the vehicular traffic needs of both small businesses and apartment developers, who tell us that they need to provide parking.
4. **Reevaluate Transit Needs in Light of Lessons from the Pandemic.** The spread of COVID-19 and subsequent changes to all areas of work, retail, delivery services, and family life are an object lesson in changing needs. The information already gleaned from changes to travel and telecommuting patterns should be incorporated into the draft Plan.
5. **Provide Flexibility for Future Developments.** The draft Plan is not poised to accommodate future transportation solutions, which are constantly evolving. The impacts of conversion to electric vehicles over the next 25 years, growth in private multi-passenger services (e.g. Uber and Lyft), and new forms of transportation that are likely to become available soon, such as autonomous vehicles, are not considered. Development in areas near transportation hubs will progress and impose new transportation needs, and the ongoing pandemic will change transportation needs in ways that cannot yet be predicted. The draft Plan should exhibit adequate flexibility to respond to current conditions or adapt to changing conditions over its time frame.
6. **Integrate with Other Jurisdictions from the Outset.** Despite recognizing these realities, the draft Plan does not adequately consider that State and Federal roads crisscross the County

and will not be subject to the draft Plan, nor the need to integrate the County's transportation modes with other adjacent jurisdictions. It is unclear whether MDOT was consulted with on this draft Plan. Also, County residents and non-residents will still routinely need cars to travel to other parts of the County, to other parts of Maryland, to DC, and to Northern Virginia. Commercial traffic and delivery vehicles will continue to use, and depend, on adequate roadways and traffic control within the County.

7. **Accommodate Many Groups Who Cannot Use Mass Transit.** While the draft Plan focuses on equity, if the County does not plan for cars and insists on 'road diets', one direct consequence would be a significant negative impact on many groups of County residents, for whom the draft Plan would create inequities including:
 - Low income residents;
 - Senior citizens;
 - People with many types of disabilities.

Despite acknowledgment of these groups of people in the current draft Plan, the needs have not been adequately considered and appear to be based on assumptions more than data. Lower income residents often rely on cars to reach multiple jobs in a timely fashion and using mass transit can be more expensive and require significantly more time than making the same trip by car. Similarly, while the draft Plan discusses the County's growing aging population, it does not take into account the many who are not going to bike or walk, particularly in inclement weather, to meet their day-to-day needs. Crucially, the draft Plan does not provide adequately for people with all types of disabilities. Physically challenged residents are mentioned, but only in the context of being able to "roll" to places. Besides mobility, other physical and emotional challenges will always make it difficult for residents to use transit, to walk, or to cycle. The draft Plan does not adequately consider the issues that impact these large groups of people.

8. **Specify the Proportion of the County that Could Evolve into Complete Communities and Better Consider Transportation Needs for the Other Areas.** Many areas of the County will never become Complete Communities, and even those that do will have limits that cannot be circumvented by walking, cycling, or using only mass transit. Community amenities such as libraries, recreation centers, and sports fields are not likely to be included and/or accessible in all areas. It is not realistic to expect families with young children to avoid vehicles for all education, medical, and recreational needs.

V. Public Facility Implementation Plans

Although the draft Plan is intended to be visionary, rather than an exact road map for the future, its success relies on the development of costly infrastructure (e.g., rail, BRT routes, and public facilities such as schools, libraries, recreation centers, and possibly additional emergency facilities, etc.).

Public revenues, at least in the near future, are dwindling for infrastructure projects due to the county's slow economic growth and, more recently, to COVID-19. Further, reliance on private enterprises or Public Private Partnerships to "build our way forward" may be fraught with unintended financial burdens as well as social and equity consequences, as we have recently learned from the Purple Line.

We have the following specific concerns regarding the discussion and analysis of public facilities in the draft Plan:

1. **Specify Payment Plans for Public Facilities.** The Plan should address how the County will pay for decentralized public facilities.

Throughout the draft Plan there is lack of clarity regarding 15-minute living in general and 15-minute access to public facilities in particular. The draft Plan encourages co-location of "essential services such as schools, medical clinics, daycare centers, libraries and recreation centers within communities". While the County in some instances does currently provide for co-location, it has an extensive range of centralized facilities, including swim centers, sports centers, motor vehicle offices, and immersion programs in schools. The draft Plan appears to be reversing this centralization and sharing of public facilities by calling for decentralizing these services so that residents have 15-minute access. Regardless of how the Plan ultimately defines 15-minute living, building and operating these decentralized facilities will add significant costs to the County's budget and should be addressed as part of the draft Plan.

2. **Coordinate with School Facilities and Programs.** We recommend that the Planning Board work closely with MCPS and the Board of Education to determine if decentralization of middle and high schools, plus the possible termination of magnet and immersion programs, is in the best interest of the County and its students.

While most elementary schools are a short walk for K through 5th graders, middle and high schools are clustered and today for many students require a car or bus ride. The decentralization of middle and high schools to accommodate 15-minute living will radically change that model. Even with compact designs or co-location with other public facilities, under the draft Plan a large number of additional schools will need to be built at a substantial

cost. Further, there is the question of whether magnet and immersion programs should be scaled back or eliminated in the interest of walkability, or made available more broadly, which raises issues of staffing. This is an important policy question for consideration by MCPS and the Board of Education. Related questions regarding athletic programs and the cost of fielding team sports at an increased number of schools as well as the feasibility of acquiring the land that will be needed in already fully built-out neighborhoods also need additional review and analysis.

In light of the County's national reputation for educational excellence and the significance of that reputation to the decision of many companies and families to relocate to the County, adopting the Compact Communities concept requires careful consideration of its impact on the County's educational system as well as whether it will help attract new families and business to the County.

3. **Prioritize Equity**. Public facilities are not equitably distributed throughout the county. The draft Plan should prioritize adding missing public facilities to disadvantaged neighborhoods and upgrading the facilities currently in those neighborhoods.

Transforming existing single-family neighborhoods near rail and BRT transit into Complete Communities will, in many places, involve improving access to public facilities such as libraries, recreation centers, schools, parks, government offices, and natural green spaces, among other things. This improved access may necessitate construction of new facilities. Transforming existing neighborhoods near transit into Complete Communities appears to be the draft Plan's priority. However, some of these neighborhoods are already more amenity-rich than many of the County's disadvantaged neighborhoods. Given budgetary constraints, it seems unlikely that improvements can be made in all neighborhoods simultaneously. To better serve those with greatest need in the County, the priority should be to make improvements in the neighborhoods with the greatest socioeconomic needs and the poorest access to those services.

4. **Coordinate with Police and Fire Protection Services**. We recommend that the Planning Board work closely with representatives of MCPD, County and local Fire Departments to ensure that the Plan does not adversely impact public safety and fire protection services.

Historically, there is a strong relationship between population density and the need for police and fire and emergency services. Decentralization may require expenditures for land acquisition and construction; how it might affect staffing is unclear. We believe extensive additional input is needed from MCPD, MCFRS, and private fire departments regarding urban, suburban, and rural Complete Communities and the most effective, cost-efficient deployment of these services.

VI. General Implementation Plan

1. **Use Master Plans and Sector Plans.** We strongly urge that zoning changes be established through a Master Plan or Sector Plan approach and not through a global ZTA approach. Implementing changes to housing and uses in neighborhoods through a Master Plan or Sector Plan is more appropriate than other approaches because the County's neighborhoods have such varied characteristics – one size does not fit all. This approach also allows communities and planners to have a dialog based on the actual experience of living and/or working in a neighborhood as decisions are made about changes to the physical characteristics of the neighborhoods (see item 5 in the Complete Communities section).
2. **Move Design Excellence Criteria to Other Plans.** Design excellence should be addressed in Master and Sector Plans rather than in Thrive Montgomery.

The promotion of design excellence in public buildings is a commendable goal but is beyond the scope of a general plan such as Thrive Montgomery. This goal is not clearly defined in the draft Plan and can be subject to changing trends and individual opinion; for these reasons we urge that it not be imposed on a community through the Plan. Within each Master or Sector Plan, a panel including relevant experts and community representatives, with input from neighboring properties, should be part of the design excellence process. Also, design guidelines should not be used in place of zoned density, but rather to enhance the aesthetic appearance of allowed density.

From a practical perspective, increased costs ascribed to design excellence will present a financial challenge, given the fiscal issues facing the County.

3. **Improve Implementation Timeline.** The implementation timeline should reflect the realities of obtaining financing to build the new mass transit, bicycle routes, sidewalks, parks, greenways, and decentralized public facilities that will be needed to create Complete Communities across the county and make the Plan a success. The timeline must include metrics to measure progress and success.

We appreciate your full consideration of these concerns.

Respectfully Submitted,

Robert Goodwin, Jr., Board Vice Chair
Chevy Chase Village

Tracey Furman, Mayor
Town of Kensington

Joan Barron & Shelley Yeutter, Co-Presidents
Chevy Chase West Neighborhood Association

James A. Ruspi, Mayor
Town of Laytonsville

Melanie Rose White, Chair
Citizens Coordinating Committee of Friendship
Heights*

Jeffrey Slavin, Mayor
Town of Somerset

David Barnes, President
Edgemoor Citizens Association

Marnie Shaul, Council President
Town of Somerset

Roger Conley, President
Kenwood Citizens Association

Susan Manning, Council Chair
Village of Chevy Chase Section 3

Cecily Baskir, Mayor
Town of Chevy Chase

Gregory S. Chernack, Council Chairman
Village of Chevy Chase Section 5

Paula Fudge, Council Chair
Town of Chevy Chase View

Melanie Rose White, Mayor
Village of Friendship Heights

Kacky Chantry, Mayor
Town of Garrett Park

Adrian Adreassi, Council Chair
Village of North Chevy Chase

Willem Polak, Mayor
Town of Glen Echo

*Representing the Communities of Brookdale, Chevy Chase Village, Chevy Chase West, Drummond, Kenwood, Kenwood Condominium, Kenwood Forest II, Kenwood House Cooperative, Little Falls Place, Somerset, Somerset House Condominiums, Sumner Village, Village of Friendship Heights, Westbard Mews, Westmoreland, Westwood Mews, and Wood Acres.

cc: Montgomery County Council
Marc Elrich, Montgomery County Executive
Gwen Wright, Director, Montgomery County Planning Department

Appendix A – Requests

1. The draft Plan contains a statement that disparages community participation in the planning process: “Communities have become highly adept at using the public process to block new housing and solving the county’s housing shortage will require a shared vision throughout Montgomery County.” (page 86). This statement is inappropriate and should be removed from the document.
2. The Plan should explain the impact its adoption will have on existing Master Plans and Sector Plans. Will recently adopted Master and Sector Plans be revised to reflect the Goals, Policies, and Action items in the Plan?
3. Some incorporated municipalities (e.g., Rockville, Gaithersburg, Takoma Park) and HOAs will not be impacted by Thrive Montgomery’s push to add Missing Middle housing types to existing single-family neighborhoods, potentially creating a disparate impact. Please add a map that shows where Missing Middle Housing could be located.
4. San Diego recently began allowing Missing Middle housing in formerly single-family detached house neighborhoods. It is a large and diverse county, much like Montgomery County. Please include best practices from San Diego in the Thrive Montgomery document.
5. The draft Plan is not well organized. For example, there are Complete Communities and housing items in nearly all of the chapters which makes it very difficult for the reader to get a comprehensive view of what is being proposed for these topics. We urge you to group Complete Communities items together, housing items together, transportation items together, and so forth. Additionally, quite a few of the policies and actions seem too granular for a general Plan and run the risk of becoming outdated; consider dropping them.

Appendix B – Specific Questions

Complete Communities:

1. The draft Plan proposes to grow commercial centers that are attractive as headquarters locations for large, multinational corporations, major regional businesses, federal agencies, and small and locally owned businesses. How do these commercial centers fit with the proposed Complete Communities?

Housing Affordability:

1. What housing types will be considered single-family housing? The draft Plan refers to attached single-family, semi-detached single family, and detached single-family housing, but does not define what housing types these terms include. Please add definitions for these to the Glossary.
2. Will HOAs be excluded from ZTAs or will their covenants override?

Transportation Access:

1. Some municipalities in other states are not exclusively dedicating one lane to BRT; rather the lane becomes dedicated during certain traffic conditions. What novel ways could streets be repurposed for BRT?
2. The draft Plan mentions developing a “logistics plan to facilitate increasing volumes of e-commerce-related deliveries.” However, downtowns and town centers are slated for more density. How will the increase in delivery vehicles factor into lane reduction, parking decreases, and zero emissions?

Businesses Growth:

1. County Planning staff have stated that corner stores and other businesses will be added to existing neighborhoods, but only on the edges of those neighborhoods, not in the middle of them. How will the placement of these businesses be determined and controlled? How will zoning be altered to allow these uses?
2. What business climate conditions will be created to attract companies and keep them in the County and what types of housing and transportation do employers need?
3. What metrics and consequences will be put into place to ensure minority business owners have equitable access?
4. Has the County considered focusing incentives and commercial land use policies to attract specific industries that take advantage of our unique access to DC so that these industries become synonymous with Montgomery County? Examples might include agritourism (in conjunction with Washington DC tourism and Agricultural Reserve), medical research (benefiting from proximity to the National Institutes of Health and the Food and Drug Administration), and green manufacturing (converting ‘strip malls’ and department stores to manufacturing centers).

Role of Municipalities:

1. What are the expectations for “partners” in the implementation of Thrive Montgomery? We noticed that municipalities were not listed among the potential partners.

The Honorable Will Smith
Maryland State Senate
Miller Senate Office Building, 2 East Wing
11 Bladen St.
Annapolis, MD 21401

The Honorable

To Chair Smith and Vice Chair Waldstreicher:

We, the undersigned Mayors of XX cities and towns across Maryland are writing today to express our support for passing the following police reforms during the 2021 legislative session:

1. Repeal in full of the Law Enforcement Officers' Bill of Rights;
2. Reform the Public Information Act to allow disclosure over all complaints of police misconduct; and
3. Enact a statewide use of force policy that prohibits officers from using force unless it is absolutely necessary, and allowing both criminal penalties and civil remedies.

Law Enforcement Officers' Bill of Rights

Bills of Rights are intended to protect residents from government actors, not protect government actors from public accountability.

Constitutionally, officers are entitled to the same rights as other state and local government employees: (1) an opportunity to be heard, and (2) a right to an appeal. There is no Constitutional right to a pre-discipline hearing.

LEOBR grants law enforcement officers special due process rights that do not exist for anyone else; it mandates that officers can only be investigated by other officers; and it ties the hands of police chiefs, preventing them from disciplining their own officers. It is precisely because police have the most power over people they serve – to legally deny someone their liberty or take their life – and the most disproportionate impact on people of color that they must be held to the same standard as other government employees, and not shielded from accountability.

Public Information Act

PIA requests filed in different jurisdictions around the state have found that less than 10% of officer complaints are sustained. This also includes complaints that have been downgraded or misclassified. Allowing disclosure over only a narrow subset of sustained and un-sustained complaints is not enough. There must be public oversight over the vast majority of complaints that result in less than lethal

outcomes but are just as corrosive to the relationship between police and communities they serve.

Use of Force

Maryland is one of only a few states without a statewide use of force policy, and a robust policy is necessary in order to stop officers from killing people in the moment, provide just accountability for excessive force, and begin to change the culture around officer behavior. Any use of force bill must authorize criminal penalties as well as civil remedies. It must elevate the legal standard under *Graham* and *Gardner* beyond a reasonableness test to prohibit force unless it is necessary. And it must require officers to warn, deescalate, and intervene when other officers violate the use of force policy.

We thank you for your past work on these issues, and ask you to support these fundamental reforms to change abusive practices and protect lives across Maryland. As elected leaders in across the state, we are eager to continue our work together to create safe, justice communities for all our residents.

Respectfully,

Mayor, [Town]

BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND

POTOMAC ELECTRIC POWER COMPANY'S
APPLICATION FOR AN
ELECTRIC MULTI-YEAR PLAN

*
*
*
*

Case No. 9655

PETITION TO INTERVENE AND NOTICE OF APPEARANCE OF
TOWN OF KENSINGTON

Pursuant to Order No. 89660, issued by the Public Service Commission of Maryland (“Commission”) on October 27, 2020, the Town of Kensington (“Kensington”), a municipal corporation of the State of Maryland, by and through its attorneys Council, Baradel, Kosmerl & Nolan, P.A. and Suellen M. Ferguson, hereby files its petition to intervene as a party in the above-captioned proceeding. In support of its petition, Kensington states as follows:

1. This proceeding involves the October 26, 2020, application (“Application”) of Potomac Electric Power Company (“Pepco”) for authority to adjust its retail rates for the distribution of electric energy and implement a Multi-Year Plan (“MYP”). Pepco’s Application proposes an MYP covering the period April 1, 2021 through March 31, 2024.
2. Pepco serves electric customers in Kensington. These customers, which include residential ratepayers, commercial ratepayers, and Kensington itself, have a vital interest in assuring that Pepco’s rates and services are just and reasonable.
3. This case will provide an opportunity to gather valuable lessons learned to inform future multi-year rate plans. Therefore, Kensington has a substantial interest in participating in this proceeding. No other party can adequately represent Kensington’s interest.

4. Kensington requests that the following individuals be included on the service list in this proceeding to receive service of all orders, pleadings, and other documents:

Bridget Hill-Zayat
Town of Kensington Council Member
3911 Baltimore St.
Kensington, MD 20895
302-521-7659
E-mail: bridgettok@gmail.com

Matthew Hoffman
Town Manager for Town of Kensington
3710 Mitchell Street
Kensington, MD 20895
301-949-2424
E-mail: mjhoffman@tok.md.gov

Suellen M. Ferguson
125 West Street, Fourth Floor
Annapolis, Maryland 21404-2289
(410) 268-6600
ferguson@councilbaradel.com

WHEREFORE, in consideration of the foregoing, Kensington respectfully requests that its Petition to Intervene be granted and that it be granted full party status with rights to offer testimony, cross examine witnesses and argue, at its discretion.

NOTICE OF APPEARANCE

Please enter the appearance of the following attorneys in the above-referenced case on behalf of Town of Kensington:

Council, Baradel, Kosmerl & Nolan, P.A.



Suellen M. Ferguson
125 West Street, Fourth Floor
Annapolis, Maryland 21404-2289
(410) 268-6600
ferguson@councilbaradel.com
Attorneys for the Town of Kensington

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November 2020, copies of the foregoing Petition to Intervene and Notice of Appearance of Town of Kensington were served electronically on the following parties:

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Douglas E. Micheel, Esq.
Matthew K. Segers, Esq.
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Washington, DC 20068
E-mail: kim.hassan@exeloncorp.com
demicheel@pepcoholdings.com
mksegers@pepcoholdings.com

Patti N. Johnson, Regulatory Manager
Potomac Electric Power Company
701 Ninth Street, N.W., Room 9004
Washington, D. C. 20068
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Esq. Michael A. Dean, Esq.
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Ron Bolt, Town Attorney Town of Chevy
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Suite 222 Kensington, Maryland 20895
301-528-6000
ron@boltlegal.com

Suellen M. Ferguson

Suellen M. Ferguson

Charter Resolution No. CR-01-2020

Introduced: December 14, 2020

Adopted:

OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING ARTICLE VII REGISTRATION, NOMINATIONS AND ELECTIONS, SECTION 703, "REMOVAL", SECTION 704, "DUTIES", SECTION 705, "NOTICE OF ELECTIONS", SECTION 706, "APPEAL OF THE ACTIONS OF THE BOARD OF SUPERVISORS OF ELECTIONS", SECTION 707, "REGISTRATION", SECTION 708, "NOMINATIONS", SECTION 709, "ELECTION OF THE MAYOR AND THE COUNCIL MEMBERS", SECTION 710, "CONDUCT OF ELECTIONS", AND SECTION 712, "VOTE COUNT", TO MAKE PROVISION FOR RESOLVING A TIE VOTE, REMOVE AN INVALID PROVISION WITH RESPECT TO ELIMINATING VOTERS FROM THE SUPPLEMENTAL LIST, PROVIDE THAT NO ELECTION WILL BE HELD AND THE QUALIFIED CANDIDATES WILL BE DECLARED ELECTED BY THE SUPERVISORS OF ELECTIONS IF THE NUMBER OF QUALIFIED CANDIDATES IS NOT MORE THAN THE NUMBER OF SEATS TO BE FILLED, CHANGE HOW NOTICE OF ELECTIONS IS GIVEN, TO ALLOW FOR PUBLICATION IN THE TOWN JOURNAL AND POSTING TO THE TOWN'S WEBSITE, ANY TOWN LISTSERV, AND AT TOWN HALL, LIMIT APPEALS OF SUPERVISORS OF ELECTIONS DECISIONS TO CANDIDATES AND OTHER QUALIFIED VOTERS AND SET A TIME LIMIT, EXTEND THE DEADLINE TO QUALIFY AS A CANDIDATE TO THE THIRD MONDAY IN MAY IN THE EVENT THAT NO CANDIDATE HAS TIMELY FILED FOR AN OFFICE, CLARIFY THAT QUALIFICATIONS FOR OFFICE ARE DETERMINED AT THE TIME OF FILING OF THE CERTIFICATE OF NOMINATION, ALLOW THE COUNCIL BY RESOLUTION IN AN EMERGENCY TO POSTPONE AN ELECTION UNTIL SUCH TIME AS IT CAN BE SAFELY HELD, AND TO MAKE OTHER CHANGES, ALLOW THE COUNCIL BY RESOLUTION TO AUTHORIZE VOTE BY MAIL, AND ALLOW PLACEMENT OF DROP BOXES FOR RECEIPT OF BALLOTS.

A Charter Resolution of the Mayor and Council of the Town of Kensington, Maryland, adopted pursuant to the authority of Article XI-E of the Constitution of Maryland and of §4-301 *et seq.*, Local Government Article, Annotated Code of Maryland, as amended; and

WHEREAS, §5-202 *et seq.* of the Local Government Article, Annotated Code of Maryland, authorizes the Mayor and Council to adopt those Charter resolutions as they may deem necessary in order to assure the good government of the municipality, to protect and preserve the municipality's rights, property, and privileges, to preserve peace and good order, to

CAPS : Indicate matter added to existing law.

[Brackets] : Indicate matter deleted from law.

CAPS : Indicate matter added in amendment of proposed Charter Amendment.

CAPS : Indicate matter deleted in amendment of proposed Charter Amendment.

Asterisks * * * : Indicate matter remaining unchanged in existing law but not set forth in Charter Amendment.

secure persons and property from danger and destruction, and to protect the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, the Mayor and Council undertook a thorough review of the Charter with respect to registration of voters, nomination of candidates and elections; and

WHEREAS, the Mayor and Council have determined that it is in the public interest to adopt the amendments as proposed.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Kensington, Maryland, that:

Section 1. Article VII, “Registration, Nominations and Elections”, Section 703 “Removal” of the Town Charter is repealed, re-enacted and amended as follows:

Section 703. Removal

Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges for removal. There shall be a public hearing on the charges before the Council if the member of the Board SO requests within ten (10) days after receiving the written copy of the charges.

Section 2. Article VII, “Registration, Nominations and Elections”, Section 704 “Duties” of the Town Charter is repealed, re-enacted and amended as follows:

Section 704. Duties

The Board of Supervisors of Elections shall ~~[be in charge of]~~ ADMINISTER nominations and all Town elections. The Board may appoint election clerks or other ~~[employees]~~ PERSONS to assist it in any of its duties, but no salary, expenses, or other compensation shall be paid to such appointees except as provided by the Council. The Board shall be the judge of the election ~~[and qualifications of its members]~~.

Section 3. Article VII, “Registration, Nominations and Elections”, Section 705, “Notice of Elections” of the Town Charter is repealed, re-enacted and amended as follows:

Section 705. Notice of Elections

The Board of Supervisors of Elections shall give at least two (2) weeks’ notice of

every election, by POSTING A NOTICE THEREOF AT TOWN HALL, TO THE OFFICIAL TOWN WEBSITE, AND TO ANY TOWN-MAINTAINED E-MAIL LISTSERV, AND BY PUBLISHING IN THE TOWN NEWSLETTER ~~[, an advertisement published in at least one newspaper of general circulation in the Town and by posting a notice thereof in some public place or places in the Town].~~

Section 4. Article VII, “Registration, Nominations and Elections”, Section 706

“Appeal of the Actions of the Board of Supervisors of Elections” of the Town Charter is repealed, re-enacted and amended as follows:

Section 706. Appeal of the Actions of the Board of Supervisors of Elections

If any ~~[person]~~ CANDIDATE OR OTHER QUALIFIED VOTER shall feel aggrieved by the action of the Board of Supervisors of Elections ~~[by any action]~~, such person may appeal to the Council WITHIN FIFTEEN (15) DAYS OF THE ACTION. Any decision or action of the Council upon such appeals may, in turn, be appealed to the Circuit Court for Montgomery County within thirty (30) days of the decision or action of the Council.

Section 5. Article VII, “Registration, Nominations and Elections”, Section 707

“Registration” of the Town Charter is repealed, re-enacted and amended as follows:

Section 707. Registration

~~[Registration by a resident with the Montgomery County Board of Supervisors of Elections shall be deemed registration for Town elections.]~~ A. ANY PERSON RESIDING WITHIN THE CORPORATE LIMITS OF THE TOWN OF KENSINGTON WHO IS REGISTERED TO VOTE WITH THE MONTGOMERY COUNTY BOARD OF SUPERVISORS OF ELECTIONS AND WILL BE AT LEAST 18 YEARS OF AGE ON ELECTION DAY SHALL AUTOMATICALLY BECOME A REGISTERED VOTER OF THE TOWN AND BE ENTITLED TO VOTE AT GENERAL OR SPECIAL ELECTIONS OF THE TOWN, provided that the application for such registration is received by the Montgomery County Board of Supervisors of Elections no later than 9:00 p.m. on the fifth Monday prior to an election. The Kensington Board of Supervisors of Elections shall accept the list of registered voters provided by the Montgomery County Board of Supervisors of Election as a valid registration list for the Town.

B. Registration of voters shall be permitted in the Town offices during regular office hours every day such offices are open, to develop a supplemental list of registered voters, and at such other times and places as the Council may establish from time to time. Town registration books shall be closed on the last Tuesday in May prior to the Town election. The Board of Supervisors of Elections shall keep the Town supplemental registration lists up to date by striking from the lists any persons who have died, OR ~~[who have moved out of]~~ NO LONGER

MAINTAIN RESIDENCE IN the Town [~~or who has not voted in a Town election within the five preceding calendar years.~~] The Council, by ordinance, [~~shall~~] MAY adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and provide for re-registration when necessary.

Section 6. Article VII, “Registration, Nominations and Elections”, Section 708

“Nominations” of the Town Charter is repealed, re-enacted and amended as follows:

Section 708. Nominations

A. Persons may be nominated AND QUALIFY for elective office in the Town by filing a certificate of nomination AND THE FINANCIAL DISCLOSURE REQUIRED BY SECTION 2-308 OF THE KENSINGTON CODE at the office of the Board of Supervisors of Elections on or before the second Monday in May preceding the Town election. No person shall file for nomination to more than one elective Town public office or [~~to~~] hold more than one elective Town public office at any one time.

B. IN THE EVENT THAT NO QUALIFIED CANDIDATE FILES FOR THE OFFICE OF MAYOR OR ONE OR MORE COUNCIL SEATS ON OR BEFORE THE SECOND MONDAY IN MAY PRIOR TO THE ELECTION AS REQUIRED HEREIN, THEN THE DEADLINE FOR RECEIPT OF CERTIFICATES OF NOMINATION AND AUTHORIZATIONS IS EXTENDED TO THE THIRD MONDAY IN MAY PRIOR TO THE ELECTION.

C. NO CERTIFICATES OF NOMINATION FOR AN INDIVIDUAL SHALL BE CONSIDERED VALID UNLESS THAT INDIVIDUAL POSSESSES ALL THE REQUIRED QUALIFICATIONS FOR THE OFFICE SOUGHT BY THE DATE OF FILING.

Section 7. Article VII, “Registration, Nominations and Elections”, Section 709,

“Election of the Mayor and the Council Members” of the Town Charter is repealed, re-enacted and amended as follows:

Section 709. Election of the Mayor and the Council Members

A. On the first Monday in June in every even numbered year, the voters of the Town shall elect the Mayor and two (2) persons as Council Members. On the first Monday in June in every odd numbered year, the registered voters of the Town shall elect two (2) persons as Council Members. The Mayor and the Council Members shall serve for terms of two (2) years.

B. WHEN A STATE OF EMERGENCY HAS BEEN DECLARED FOR THE TOWN BY THE MAYOR AND COUNCIL, OR BY THE STATE OF MARYLAND OR MONTGOMERY COUNTY, PURSUANT TO STATE OR LOCAL LAW, AND IN THE JUDGMENT OF THE MAYOR AND COUNCIL THE STATE OF EMERGENCY

PREVENTS THE SAFE, ORDERLY AND EFFICIENT CONDUCT OF A TOWN ELECTION, THE MAYOR AND COUNCIL MAY, BY RESOLUTION, POSTPONE AN ELECTION UNTIL SUCH TIME AS THE ELECTION MAY BE CONDUCTED IN A SAFE, ORDERLY AND EFFICIENT MANNER AND MAKE NECESSARY CHANGES TO THE METHOD, CONDUCT, OR VOTING SYSTEM OF AN ELECTION TO ENSURE AN ACCURATE VOTE COUNT AND CERTIFICATION OF THE ELECTION RESULTS.

C. THE MAYOR AND COUNCIL MAY BY RESOLUTION:

1. AUTHORIZE AN ELECTION TO BE CONDUCTED IN WHOLE OR IN PART BY MAIL, AND
2. MAKE PROVISION FOR A DROP-BOX FOR BALLOTS AT TOWN HALL.

Section 8. Article VII, “Registration, Nominations and Elections”, Section 710

“Conduct of Elections” of the Town Charter is repealed, re-enacted and amended as follows:

Section 710. Conduct of Elections

It is the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 6:00 p.m. to 9:00 p.m. on election days or for ~~longer~~ SUCH hours ~~if~~ THAT the Council BY RESOLUTION requires. The Board of Supervisors of Elections shall provide for absentee ballots.

AS OF THE DEADLINE FOR NOMINATION SET FORTH IN SECTION 708, IF THE NUMBER OF QUALIFIED CANDIDATES IS NOT MORE THAN THE NUMBER OF SEATS TO BE FILLED, THEN NO ELECTION WILL BE HELD, AND THE QUALIFIED CANDIDATES SHALL BE DECLARED ELECTED FOR THE TERM BY THE BOARD OF SUPERVISORS OF ELECTIONS AT THE NEXT PUBLIC MEETING OF THE MAYOR AND COUNCIL.

Section 9. Article VII, “Registration, Nominations and Elections”, Section 712 “Vote

Count” of the Town Charter is repealed, re-enacted and amended as follows:

Section 712. Vote Count

Within twenty-four (24) hours after the closing of the polls, OR AS SOON AS PRACTICABLE THEREAFTER, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Mayor of the Town who shall order the results recorded in the minutes of the Council. The candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. The two (2) COUNCIL MEMBER candidates ~~[for Council Members]~~ with the highest

number of votes in the ~~[municipal]~~ GENERAL election shall be declared elected as Council Members.

IF TWO OR MORE CANDIDATES FOR MAYOR, OR THREE OR MORE CANDIDATES FOR COUNCILMEMBER, RECEIVING THE HIGHEST NUMBER OF VOTES, RECEIVE AN EQUAL NUMBER OF VOTES, THE MAYOR AND COUNCIL SHALL DIRECT THE BOARD OF SUPERVISORS OF ELECTIONS TO ADMINISTER A SPECIAL ELECTION. THE SUPERVISORS OF ELECTIONS SHALL DECLARE THE CANDIDATE FOR MAYOR, AND THE TWO COUNCIL MEMBER CANDIDATES, RECEIVING THE HIGHEST NUMBER OF VOTES IN THE SPECIAL ELECTION TO BE ELECTED TO THE RESPECTIVE OFFICES.

Section 10. Article VII, "Registration, Nominations and Elections", Section 714

"Vacancies" of the Town Charter is repealed, re-enacted and amended as follows:

Section 714. Vacancies

A. In the case of a vacancy for any reason in the position of Council Member which occurs ninety (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. ~~[In the case of]~~ FOR any such vacancy ~~[which]~~ THAT occurs less than ninety (90) days prior to the expiration of the term ~~[vacancy for the unexpired term shall be]~~ OFFICE SHALL REMAIN VACANT UNTIL filled at the next general election.

B. In the case of a vacancy in the office of Mayor for any reason, which occurs ninety (90) days or more prior to the expiration of the term, a special election shall be called within sixty (60) days to fill such vacancy for the unexpired term. In the case of any such vacancy which occurs less than ninety (90) days prior to the expiration of ~~[the expiration of]~~ the term, the ~~[vacancy for the unexpired term shall be]~~ OFFICE SHALL REMAIN VACANT UNTIL filled at the next general election~~[-, provided that such term shall not expire on the second Monday after such election].~~

Section 11. **BE IT FURTHER RESOLVED** that this Charter Resolution was introduced on the ____ day of _____, 2020 and was considered for adoption after a public hearing. It is adopted this _____ day of _____, 2021, after at least 21 days of prior public notice of the public hearing and shall be and become effective upon the fiftieth (50th) day after its passage by the Town unless petitioned to referendum in accordance with §4-304 *et seq.* of the Local Government Article, Annotated Code of Maryland, within forty (40) days following its passage. A complete and exact copy of this Charter Resolution

shall be posted in the Town offices located at 3710 Mitchell Street, Kensington, Maryland 20895 for forty (40) days following its passage by the Mayor and Council and a fair summary of the Charter Resolution shall be published in a newspaper having general circulation in the Town not less than four (4) times, at weekly intervals, also within the forty (40) day period following its adoption by the Town .

Section 12. **BE IT FURTHER RESOLVED** that after the Charter Resolution hereby enacted becomes effective, either as herein provided or following referendum, the Town Manager for the Town of Kensington shall send separately, by certified mail, return receipt requested, to the Department of Legislative Reference, the following information concerning the Charter Resolution: (i) the complete text of this Resolution; (ii) the date of referendum election, if any, held with respect thereto; (iii) the number of votes cast for and against this Resolution by the Council of the Town of Kensington or in the referendum; and (iv) the effective date of the Charter Resolution.

Section 13. **BE IT FURTHER RESOLVED** that if any provision of this Resolution or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect the other provisions or any other application of this Resolution or of the Charter which can be given effect without the invalid provisions or application, and to this end, all the provisions of this Resolution and of the Charter are hereby declared to be severable.

INTRODUCED by the Mayor and Council of the Town of Kensington, Maryland at a regular meeting on the _____ day of December, 2020.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland in public meeting assembled on the _____ day of _____, 2021.

EFFECTIVE the _____ day of _____, 2021.

ATTEST:

TOWN OF KENSINGTON

Susan Engels, Town Clerk-Treasurer

By _____
Tracey Furman, Mayor

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Suellen M. Ferguson, Town Attorney

Ordinance No. O-03-2020
 Introduced: December 14, 2020
 Adopted:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF KENSINGTON TO AMEND CHAPTER VIII, "HEALTH AND ENVIRONMENTAL REGULATIONS", BY ENACTING ARTICLE 9, "PESTICIDES", TO INCORPORATE CHAPTER 33B, OF THE MONTGOMERY COUNTY CODE ENTITLED "PESTICIDES", WHICH CONTAINS VARIOUS PROVISIONS TO PROTECT THE HEALTH OF THE PUBLIC AND TO MAKE CONFORMING CHANGES.

WHEREAS, §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 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 determined that it is in the public interest to amend Chapter VIII, "Health and Environmental Regulations", by enacting Article 9, "County Pesticides Law Adopted", and otherwise make conforming changes.

Section 1.

NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, that Chapter VIII, "Health and Environmental Regulations", Article 9, "Pesticides" be enacted to read as follows:

ARTICLE 9 PESTICIDES

SECTION 8-901. COUNTY PESTICIDES LAW ADOPTED

(A) CHAPTER 33 B OF THE MONTGOMERY COUNTY CODE ENTITLED "PESTICIDES", WHICH CONTAINS VARIOUS PROVISIONS TO PROTECT THE HEALTH OF THE PUBLIC, INCLUDING ANY FUTURE AMENDMENTS, REVISIONS, OR CHANGES THERETO, IS HEREBY ADOPTED AND MADE PART OF THE THIS CODE BY REFERENCE, EXCEPT AS OTHERWISE PROVIDED IN THIS CODE.

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

(B) THIS SECTION IS AN EXCEPTION TO THE GENERAL EXEMPTION 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) A COPY OF CHAPTER 33B OF THE MONTGOMERY COUNTY CODE SHALL BE KEPT IN THE TOWN OFFICE AND SHALL BE MADE AVAILABLE DURING NORMAL BUSINESS HOURS.

Section 2.

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 _____ 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;

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

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.

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.

INTRODUCED by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the ____ day of December, 2020.

ADOPTED by the Mayor and Town Council of Kensington, Maryland at the regular public meeting assembled on the ____ day of February, 2021.

EFFECTIVE the ____ day of March, 2021.

ATTEST:

TOWN OF KENSINGTON

By: _____
Susan C. Engels, Clerk – Treasurer

Tracey C. Furman, Mayor

APPROVED AS TO FORM:

Suellen M. Ferguson, Town Attorney

CAPS

[Brackets]

Asterisks * * *

CAPS

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