

**TOWN OF KITZMILLER
ORDINANCE NO. 2005-02
DEBRIS, TRASH AND RUBBISH**

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF KITZMILLER REGULATING THE ACCUMULATION OF DEBRIS, TRASH AND RUBBISH IN THE TOWN OF KITZMILLER; REPEALING ALL OTHER ORDINANCES AND RESOLUTIONS PERTAINING TO DEBRIS, TRASH AND RUBBISH; AND MAKING THE VIOLATION OF THIS ORDINANCE A MUNICIPAL INFRACTION.

WHEREAS, the Mayor and Town Council of Kitzmiller is authorized by Article 23A of the Maryland Annotated Code and by the Kitzmiller Charter to enact ordinances to protect the health, safety and welfare of residents and visitors of Kitzmiller.

WHEREAS, the Mayor and Town Council of Kitzmiller has received complaints about the accumulation of debris, trash and rubbish within the Town of Kitzmiller and finds that such debris, trash and rubbish is a hazard to the health, safety and welfare of the residents of the Town of Kitzmiller;

NOW, THEREFORE, THE MAYOR AND TOWN COUNCIL OF KITZMILLER, DOES ORDAIN AND RESOLVE THE FOLLOWING:

ARTICLE ONE

REPEAL OF PRIOR ORDINANCES AND RESOLUTIONS

All other Ordinances and resolutions enacted and adopted by the Mayor and Town Council of Kitzmiller pertaining to debris, trash and or rubbish, prior to the enactment of this ordinance, are hereby repealed.

ARTICLE TWO

DEFINITIONS

Section 1. "Building" shall mean a structure enclosed by four walls and having a roof. Buildings include, but are not limited to residences, garages, storage buildings, business structures, or any other structure .

Section 2. "Debris, trash and rubbish" shall mean discarded material or refuse of any kind, except normal household refuse placed in a proper container awaiting removal by town trash collectors; used

lumber, construction materials, discarded or inoperable machinery, car or vehicle parts, tires, refrigerators, bathroom fixtures, or household accessories or appliance of any kind; furniture other than useable lawn and garden furniture; brush; yard waste; tall grass and weeds 12 inches high or more; anything that is broken or dismantled; the remnants of anything which is broken or dismantled; or any parts or pieces thereof; pieces of broken trees, bushes or shrubbery; anything which is not intended for use out of doors and which is left out of doors more than twenty-four (24) hours unless awaiting pickup by town trash collectors; animal excrement, filth, any other item determined to be debris, trash or rubbish by the Mayor or his or her authorized representative.

Section 3. "Person" shall mean any natural person, firm, partnership, association, corporation or organization of any kind.

Section 4. "Town" shall mean the Town of Kitzmiller, a Municipal corporation organized under the laws of the State of Maryland, and includes the Mayor and Town Council of Kitzmiller.

ARTICLE THREE

PROHIBITIONS

Section 1. Debris, trash and rubbish shall be prohibited item being located within the town of Kitzmiller unless stored in a building, Out of sight.

Section 2. Debris, trash and rubbish awaiting pick-up by the Town or by Town trash collectors must be placed at the edge of the Town right-of-way not more than 24 hours before the scheduled pickup period.

Section 3. Nothing herein shall prohibit the storage of debris, trash and rubbish by a properly licensed salvage yard as long as such salvage yard is in compliance with the Garrett County Junk Ordinance or a Junk Ordinance enacted by the Mayor and Town Council of Kitzmiller.

Section 4. No lot, plot or parcel of land in one ownership (hereafter "lot") or qualifying portion thereof will be held to be in violation of the prohibition against "tall grass and weeds 12 inches high or more," as set forth under Article Two, "Definitions", Section 2 defining "Debris, trash and rubbish" when the subject property or qualifying portion of the subject property meets one of the following criteria:

(a). Wooded or Forested Lot. Whether or not contiguous with or adjacent to other property of the same owner, any property or that portion thereof which is mature forest or woodlands substantially in its natural state, such that concentrations of tall grass and weeds are suppressed by the naturally occurring detritus and undergrowth; or,

(b). Vacant Lot. Unless contiguous with or adjacent to other property of the same owner which has been improved with a building, any property which does not qualify as an exemption under section (a) of this Section 4, so long as the Subject property or portion thereof is mowed or otherwise cleared at least once annually and the grass and weeds are not allowed to exceed 30 inches in height.

ARTICLE FOUR

ENFORCEMENT

Section 1. Violation of any provision(s) of this ordinance is a Municipal infraction and is subject to the Enforcement Ordinance and the fines or penalties provided in the Resolution of Fines for Municipal Infractions. The Mayor and Town Council may change the amount of fines and penalties in the Resolution of Fines for Municipal Infractions after the changes have been duly posted in accordance with the policy of the Mayor and Town Council of Kitzmiller for advertising for the adoption of resolutions.

Section 2. Nothing contained in this ordinance shall prohibit or prevent the Town from seeking other legal remedies, such as injunction, criminal prosecution or damages in a civil action pursuant to Section 3 of Article 23A, Annotated Code of Maryland as amended.

ARTICLE FIVE

MINOR

In the event the violator of any provision of this ordinance is a minor, the enforcement provisions in Article Four Shall apply with full force and effect upon the parent, parents, guardian or other such person or persons directly responsible for the conduct of the minor.

ARTICLE SIX

SEPARABILITY

Section 1. It is the intention of the Mayor and Town of Kitzmiller that each separate provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 2. It is further the intention of the Mayor and Town Council of Kitzmiller that if any provisions of this Ordinance be declared invalid or unconstitutional all other provisions hereof shall remain valid and enforceable.

ARTICLE SEVEN

ENACTMENT

IT IS HEREBY ORDAINED AND RESOLVED; this ordinance shall be in full force and effect after introduction, advertising, public hearing, and approval as provided by law.

BE IT FURTHER RESOLVED, this ordinance shall be duly advertised in accordance with the

BE IT FURTHER RESOLVED, this ordinance shall be duly advertised in accordance with the Policy for the Adoption of Ordinance by the Mayor and Town Council of Kitzmiller, and a public hearing of this Ordinance shall be held on October 24, 2005 at 7:00 P.M., at the Town Hall located at 104 West Centre Street, Kitzmiller, Maryland, 21538.

INTRODUCED this 26th day of September 2005.

SECOND READING AND ADOPTION the 24th day of October, 2005.

AND BE IT FURTHER RESOLVED, this ordinance shall be effective upon adoption.

THIS ORDINANCE IS SUBJECT TO REFERENDUM AS OUTLINED IN ARTICLE 23A, SECTIONS 11 THROUGH 17.

ATTEST:



CLERK TREASURER
Diane E. Paugh



MAYOR
James A. Browning



COUNCIL MEMBER
G. Michael Brady

COUNCIL MEMBER
Melissa Nesselrodt



COUNCIL MEMBER
Judy Paugh



COUNCIL MEMBER
Robert Reckart