

Town of Milton

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Proposed Code Changes

To Council members;

After review of the town codes, I am proposing the following changes for your consideration:

1) Chapters 152 & 158 – rewrite and combine the two chapters. Chapter 158 pertains to unregulated grass/weed growth and the abatement process. Chapter 152, in addition to trash and debris, also includes grass and weed growth.

The following changes need to be considered:

- A) Lowering the maximum grass height to 6 inches.
 - B) Including tires in section 152-2(G)
 - C) Add a new subsection pertaining to the external placement of interior furniture and appliances.
 - D) Add a new subsection pertaining to grass clippings on the sidewalk and street.
 - E) Amend Chapter 158-3 concerning the effective date for violation notification
 - F) Replace \$50.00 per hour fee with the rate referenced in the fee schedule.
 - G) The abatement process in Chapter 152 requires action by the Council which would cause a delay of a month or more (152-4 and 152-5).
- 2) Add a provision to Chapter 179-3(C) concerning obligations by the Town to perform trash collection after persistent violations of the chapter.
- 3) Remove Chapter 98-34 referring to abandoning refrigerators.
- 4) Amend Chapter 85-5 to make demolition permits valid for a period of 6 months, with possible extensions for an additional 6 months.

Chapter 152

NUISANCES

§ 152-1. Prohibition.

§ 152-2. Nuisances enumerated.

§ 152-3. Notification of violation; time allowed to abate.

§ 152-4. Failure to remove nuisance.

§ 152-5. Determination by Council to remove or abate.

§ 152-6. Violations and penalties.

[HISTORY: Derived from Ch. 11, Art. 4, of the prior Code. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 63.

Abandoned excavations — See Ch. 116.

Noise — See Ch. 148.

Property maintenance — See Ch. 158.

Solid waste — See Ch. 179.

Streets and sidewalks — See Ch. 183.

§ 152-1. Prohibition.

No person shall cause, suffer, permit or maintain the existence of any nuisance upon any property owned, occupied or controlled by him or upon any sidewalk, parking strip, boardwalk or street abutting upon any property owned, occupied, or under his control.

§ 152-2. Nuisances enumerated.

The following are declared to be nuisances:

- A. Any accumulation of decomposed animal or vegetable matter, garbage, tin cans, ashes, offal, filth, waste, or other putrid or unwholesome refuse matter or substance or substances which by itself or in conjunction with any other substances is deleterious to public health, safety or comfort.
- B. Any accumulation of stagnant or impure water.
- C. Any accumulation of wastepaper, waste lumber or other building material, hay, grass, straw, weeds, trash, litter or rubbish of any character.
- D. Any growth of Russian thistle, Canadian thistle, Chinese thistle, white mustard, cocklebur, foxtail, or any other growth of noxious weed vegetation, and all grass more than 10 inches in height.¹
- E. Any brush, bushes, trees, limbs, shrubbery, flowers or other vegetation growth projecting over any sidewalk or street area, whether the same be growth for food, fuel, shade or

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III)

2. Editor's Note: See also Ch. 158, Art. 1, Weeds and Vegetation.

ornamentation, provided that the branches or limbs of such growths may project over any sidewalk or street area at an elevation of not less than eight feet above the level of the sidewalk or street surface;

- F. Any accumulation of earth, rock, stone or other debris on any sidewalk, parking strip, street, or boardwalk; and
- G. Any common growth of weeds, underbrush or other growth, trash, debris, litter or rubbish capable of harboring obnoxious insects of any kind, such as ticks, mosquitoes and flies, or any vermin-carrying rodents, or skunks, where the density of population is normally considered as built-up area, or where the concentration of houses exceeds five houses on any one side of a block.

§ 152-3. Notification of violation; time allowed to abate.

- A. Whenever the Board of Health, the Town Clerk, or any member of the police force is aware of the existence of any nuisance, it shall be his/her duty to serve a written notice on the owner, occupant or person having control of any property whereon such nuisance exists to remove and abate such nuisance within a period of five days.
- B. If any official of the Town named in Subsection A shall be unable to serve the notice personally upon the owner, occupant, or person having control of the property upon which or adjoining to which such nuisance exists, the notice may be given by posting the same in some conspicuous place on the property.
- C. Any person so notified who shall fail, neglect or refuse to remove or abate such nuisance within the time specified shall be deemed guilty of a violation of this chapter.

§ 152-4. Failure to remove nuisance.

If any owner, occupant, or person having control of any property shall fail to remove or abate the nuisance within the time specified in the notice required in § 152-3, it shall be the duty of the official who served or posted the notice to file a copy thereof with the Council, together with his/her affidavit to the effect that such notice has been served or posted and setting forth with reasonable detail the nature of the nuisance with respect to which the notice was served or posted.

§ 152-5. Determination by Council to remove or abate.

At the next regular monthly meeting of the Council after the receipt of a copy of the notice required by § 152-3 and the affidavit of the official serving such, if the Council, either upon their inspection or upon information obtained from the Board of Health, Town Clerk, or police force, shall deem that such nuisance ought to be removed or abated, the Council may use the appropriate legal remedy.

Chapter 158

PROPERTY MAINTENANCE

ARTICLE I Weeds and Vegetation

§ 158-1. Unregulated weed growth prohibited.

§ 158-2. Notification to cut weeds.

§ 158-3. Effect of notice.

§ 158-4. Removal by Town.

§ 158-5. Cost of removal by Town; payment by owner.

[HISTORY: Derived from Ch. 11, Art. 4, Div. 2, of the prior Code. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards — See Ch. 136.
Nuisances — See Ch. 152.

Streets and sidewalks — See Ch. 183.

ARTICLE I Weeds and Vegetation

§ 158-1. Unregulated weed growth prohibited. ¹

No owner or occupant of any lot, place or area within the corporate limits of the Town, nor any agent of such owner nor occupier, shall permit on such lot, place or area or upon any sidewalk abutting such lot any unregulated growth of weeds, grass or other vegetation.

§ 158-2. Notification to cut weeds.

The Town Clerk is authorized and directed to notify, in writing by certified or registered mail with return receipt requested, by postage prepaid, the owner or occupier of any lot, place or area within the corporate limits of the Town or the agent of the owner or occupier to cut, destroy and remove any unregulated growth found growing, lying or located on such owner's or occupier's property or upon the sidewalk abutting the same.

§ 158-3. Effect of notice.

The owner or occupier or agent of the owner or occupier of any lot, place or area having in any calendar year received notice, pursuant to the provisions of § 158-1, shall be deemed to have received notice for the remainder of the year that on the first day of each month thereafter, commencing May 1 through October 1, both dates inclusive, the Town may, without further notice, cut, destroy and remove all unregulated growth growing, lying or located on such owner's or occupier's property or upon the sidewalk abutting the same and

1. Editor's Note: See also § 152-2, Nuisances enumerated.

that the cost of such removal shall be charged and collected in accordance with the provisions of this article.

§ 158-4. Removal by Town.

Upon the failure, neglect or refusal of any owner or occupier or the agent of such owner or occupier to cut, destroy and remove any unregulated growth growing, lying or located on such owner's or occupier's property or upon the sidewalk abutting the same within five days after receipt of such written notice or within 10 days of the mailing of such notice, in the event of the inability to make delivery thereof, the Town Clerk is authorized to remove and pay for the cutting, destroying or removal of such unregulated growth.

§ 158-5. Cost of removal by Town; payment by owner.

Whenever the Town Clerk has effected the removal of any unregulated growth by Town employees, the owner or occupier shall be charged at the rate of \$50 per hour. Whenever the Town Clerk has had to pay for its removal pursuant to the provisions of this article, the actual cost thereof, together with additional charge of 20% of the actual charge to defray administrative expenses, plus accrued interest at the rate of 6% per annum from the date of completion of the work, if not paid by the owner or occupier prior thereto, shall be charged to the owner or occupier of such property on the next water bill by the Town. Such charge shall be due and payable by the owner at the time of payment of such water bill.

Chapter 179

SOLID WASTE

ARTICLE I Terminology

§ 179-1. Definitions.

ARTICLE II Rates, Rules and Regulations for Collection and Disposal of Solid Waste

§ 179-2. Rate schedule.

§ 179-3. Rules and regulations.

§ 179-4. Commercial hauling of solid waste.

§ 179-5. Supplemental regulations.

§ 179-6. Violations and penalties.

§ 179-7. Littering in public places prohibited.

§ 179-8. Depositing rubbish on private property prohibited.

§ 179-9. Minimum standards for sidewalks.

[HISTORY: Derived from Ch. 14 of the prior Code. Amendments noted where applicable.]

GENERAL REFERENCES

Housing standards — See Ch. 136.
Property maintenance — See Ch. 158.

Streets and sidewalks — See Ch. 183.
Zoning — See Ch. 220.

ARTICLE I Terminology

§ 179-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BAG — A plastic or polyethylene bag not less than 1 1/4 mils thick having a tie string and containing no more than 50 pounds when filled.

COMMERCIAL/BUSINESS — Any establishment operating for the intent to make a profit.

GARBAGE — Waste resulting from the handling, preparation, cooking and consumption of food, and wastes resulting from the handling, storage and sale of produce.

REFUSE —

- A. Combustible trash, including, but not limited to, paper, excelsior, tree branches, yard trimmings, wood furniture, and bedding;
- B. Noncombustible trash, including, but not limited to, metal, tin cans, dirt, stone, glass crockery, and other mineral waste;
- C. Street rubbish, including, but not limited to, street sweepings, dirt, leaves, catch basin dirt, and contents of litter receptacles; and

D. Waste resulting from industrial processes and manufacturing operations.

RESIDENTIAL AREAS — All residences, other than motels and hotels, but shall include boarding houses, apartment houses and condominiums, regardless of whether such residences are located in areas other than residential zones as defined in Chapter 220, Zoning, of the Code of the Town of Milton.

ARTICLE II

Rates, Rules and Regulations for Collection and Disposal of Solid Waste

§ 179-2. Rate schedule. [Amended 9-2001¹]

- A. Single unit. A single dwelling unit, whether detached or multiunit, whose solid waste is collected on an individual unit basis: as set by the annually adopted Fee Chart.
- B. Bulk collection. A central approved depository for the collection of solid waste used by more than one unit: as set by the annually adopted Fee Chart.

§ 179-3. Rules and regulations.

A. Bills and payment.

- (1) The Town shall provide for the collection of solid waste to every residential property owner and to the owners of multifamily dwellings, or as defined under the definition of "residential areas."
- (2) The rates as established shall be an assessment and shall be billed to the owner of the property on a quarterly basis. All bills for the services are due within 30 days, upon receipt, for the services performed during the previous quarter. Quarterly charges, if not paid within 30 days of receipt, shall accrue interest at the rate of 2% per month until paid in full. Charges for the solid waste removal service shall not be eliminated from the quarterly billing, except for the following: Properties that have had their water supply voluntarily disconnected shall not be billed the collection assessment for the period of time the water service is disconnected. [Amended 12-1995²]
- (3) Bills are rendered for any indicated period of service, either special or quarterly, and will show the proper charge therefor as determined by the applicable rate schedule. Bills shall be considered as duly rendered when delivered at or mailed to the recorded address of the customer, as provided by him for that purpose, nonreceipt of a bill shall not constitute a waiver thereof. The Tow, on request, will issue a duplicate bill at a cost to the customer of \$0.50, and no claim for exemption from assessment of any penalty charge for delayed payment will be allowed.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

- (4) The annual charge imposed under ordinance shall be a lien against the property served and shall be and remain a lien for then 10 years from the date of assessment of such charge. Such lien shall have priority over any other lien, encumbrance or conveyance even though such other lien or liens shall have same authorities.
- (5) Any customer, upon receipt of a bill, having reason to doubt its accuracy, shall bring or mail the bill within five days to the Town for investigation.

B. Containers.

- (1) Every person occupying a residence and every owner of a multifamily dwelling shall provide such premises with a sufficient number of solid waste containers to provide adequate capacity for the solid waste placed out for collection without overloading the capacity of the containers.
- (2) Solid waste containers shall be watertight with a fitted cover constructed of a solid and durable grade of metal or plastic material. Plastic bags may be used as solid waste containers, provided they conform to the requirements of Subsection B(7) of this section.
- (3) In the case of those containers which are manually emptied by the sanitation crews of the Town, the combined weight of the waste and container shall not exceed 50 pounds.
- (4) Underground containers are prohibited for use in the Town.
- (5) All containers (except plastic bags) shall be provided with suitable lifting handles on the outside and close fitting or other approved cover, equipped with a handle, and shall not exceed 30 gallons.
- (6) Containers shall not contain any inside structures, such as bands or reinforcing angles or anything within the container to prevent the free discharge of the contents. Container that have deteriorated or that have become damaged to the extent that the covers will not fit securely or that have ragged or sharp edges capable of causing injury shall be condemned by the Town, and if such containers are not replaced after notice to the owner or user, such containers will be removed by the Town.
- (7) Plastic bags shall be constructed of a material and in a manner sufficiently adequate in strength and weight to keep contents from rupturing the bag. All plastic bags shall be secured at the top to prevent spillage.³
- (8) The Town Clerk is authorized and directed to discontinue garbage and refuse collection service to any property which does not use proper containers. Five days' written notice shall be given to the property owner whose garbage and refuse service is to be discontinued. Notice shall be directed to the property owner at his last known address.

3. Editor's Note: Original § 14-3B(8), regarding dwelling units in the same building as a business, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

C. Collection.

(1) General.

- (a) All collections of solid waste materials from residences, apartment houses and other establishments shall be by Town public works (sanitation) crews or contractors hired or contracted by the Town of Milton.
- (b) It shall be unlawful for any person to place any solid waste container within any public utility easement or public way, except on designated collection days at the curblin. All containers shall be placed just behind the curblin of the street abutting such property, but shall not be placed where the containers will interfere with vehicular or pedestrian traffic.
- (c) Where solid waste is collected from the front or side street, containers shall be placed there no earlier than sunset of the day preceding the day of collection and not later than 7:00 a.m. on the scheduled day of collection and shall be removed to a point at the side or rear of the structure not later than 6:00 p.m. of the day of collection.
- (d) No solid waste, trash, brush, or any other material shall be placed in the street or on the sidewalk in such a manner as to obstruct or interfere with vehicular or pedestrian traffic. No solid waste of any description shall be disposed of within the limits of the Town in any manner other than that prescribed herein. Deposit of solid waste upon any ditch or any other method of disposal not in accordance with this chapter shall be a violation as prescribed in § 179-6 of this chapter.
- (e) Where the quantity of brush set out for collection is excessive, the Town shall determine the amount of brush to be collected at any one time, the day of collection and any other matters pertaining to brush collection. Rubbish or trash consisting of small, loose items shall be placed in approved containers. Brush or tree trimmings for pick up shall be cut in lengths not to exceed four feet, nor exceed 50 pounds in weight, and must be securely tied together in bundles.
- (f) Bulk disposal of boxes or cartons must be broken down and bundled. No bundle shall exceed 50 pounds in weight.

D. Items that the Town will not collect.

- (1) The scope of the service rendered by the Town in the collection and removal of solid waste materials is intended to serve the needs of dwelling units and their directly related activities. It is considered to be beyond the scope of such service to collect or remove solid waste materials generated by clearing, construction, demolition, and any other such activity producing quantities of solid waste.
- (2) Rock, scrap building materials or other trash resulting from construction, remodeling or destruction by fire, the elements, acts of God or other causes resulting from a general cleanup of vacant or improved property or trees, bush and/or debris cleared from a property in preparation for construction or

landscaping shall not be collected and removed by the Town as a regular service. Such materials will be removed at the expense of the owner.

- (3) Tires will not be collected by the Town. Items too bulky or heavy to be removed during regular Town collection may, at the discretion of the Town of Milton, be removed by the Town after special arrangements have been made by the owner.
 - (4) The placing of leaves in the streets of the Town is prohibited.
- E. Frequency and routes of collection. The Town of Milton determines days and schedules of collection. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.

§ 179-4. Commercial hauling of solid waste.

All vehicles used in the collection of solid waste shall have enclosed bodies or shall have bodies covered with a tarpaulin or canvas cover. All vehicles used for the collection of solid waste containing garbage or other putrescent matter shall have watertight metal bodies or metal-lined bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair. The name of the owner of the vehicle shall be displayed in a prominent and legible manner on both sides of all vehicles used in the collection and transportation of solid waste within the Town of Milton.

§ 179-5. Supplemental regulations.

The Town of Milton is hereby authorized to make additional rules and regulations for the administration of the solid waste collection system, provided that no such rule or regulations is in conflict with the specific provisions of this chapter and is in no way inconsistent with the established policies of the Town of Milton.

§ 179-6. Violations and penalties.

- A. Any person or any officer of any firm or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$500, together with costs of prosecution, or to imprisonment for a period of not more than 30 days, or both. [Amended 12-7-1992]
- B. Every violation of this chapter shall be deemed a separate offense for each and every day a violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

§ 179-7. Littering in public places prohibited.

No person shall throw, place or deposit any garbage, trash, rubbish, ashes, refuse, or other foreign substance upon any sidewalk, boardwalk, crosswalk, avenue, street, lane, alley, park, strand, or other public place or upon any property owned by the Town, or over which the police power of the Town extends.

State law reference: As to depositing refuse on public property, see 16 Del. C. § 1704.

§ 179-8. Depositing rubbish on private property prohibited.

No person shall put, place or throw any garbage, trash, or rubbish collected or gathered from one lot upon or in front of another lot within the Town.

§ 179-9. Minimum standards for sidewalks.

The following standards shall be applicable for the cleanliness of sidewalks within the business district of the Town of Milton, and shall constitute the minimum standards for keeping sidewalks clear and free of foreign matter:

- A. All sidewalks are to swept at least one time a week, prior to 10:00 a.m., and no accumulation of foreign matter is to be deposited in the street.
- B. All sidewalks adjacent to establishments from which food or beverages, or both, are sold or dispensed to customers on the sidewalk shall be washed on one day each month prior to 10:00 a.m.
- C. All trash stored outside the establishment shall be stored in vermin-proof containers and in such a manner as to not be visible from the street.
- D. All empty boxes outside the establishment shall be stored in such a manner as to not be visible from the street.

- B. Children who have attained the age of 14 years may go upon the streets, ways and/or sidewalks from door to door or house to house for treats between the hours of 6:00 p.m., prevailing time, and 8:00 p.m., prevailing time, on October 31 of any year; provided, however, that if October 31 shall be a Sunday, such going from door to door and house to house for treats shall take place on the evening of October 30, between the hours of 6:00 p.m., prevailing time, and 8:00 p.m., prevailing time.
- C. Nothing in this section shall be deemed to prohibit the gathering and participation of children in a Halloween parade or costume contest sponsored by the Town or a service club of the Town.

§ 98-34. Abandoning refrigerators.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has a door or lid, snaplock or other locking device which may not be released from the inside, without first removing the door or lid, snaplock or other locking device from the icebox, refrigerator or container.

§ 98-35. Obstructing theater exits; hinged doors.

- A. All doorways, hallways, exitways and passageways leading from the interior of any building used as a theater, moving picture house or other place of public gathering or amusement, at all times during which members of the general public are gathered therein, shall be kept absolutely free and clear of all obstructions, such as signboards, strands, billboards, or other impediments.
- B. All doors hung or erected in any such doorway or exitway or at either end of any hallway or passageway shall be hinged so as to swing or open towards the exterior of any such building. At all times during which members of the general public are gathered therein, any all such doors of any such building shall remain unbelted and unlocked.¹

§ 98-36. Violations and penalties.

- A. Any person who shall violate the provisions of this article shall be fined not less than \$50 nor more than \$500.
- B. For the purpose of this article, each day that a violation continues shall be deemed to be a separate offense.
- C. The application of any penalty set forth herein shall not be held to prevent the enforced removal of any prohibited condition.

1. Editor's Note: Original § 11-79, No swimming in portions of Broadkill River, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. III).

§ 85-5. Permit limitations.

- A. Building permits shall be valid for a period of one year from the date of issuance.
- B. A building permit may be extended for a period of one year, provided the property owner can show good cause for the extension.
- C. All construction authorized by a valid building permit shall comply with the Town of Milton ordinances, Sussex County ordinances (where applicable), state fire codes (where applicable), building codes adopted by Sussex County and flood insurance codes.

§ 85-6. Required information.

Before the Town of Milton may issue the permit required, said owner or owners of the property or their duly authorized representative shall before commencing work submit an application, in writing, to the Town Council, which shall contain the following information:

- A. The name and address of the owner or owners of the property upon which the proposed work is to be done.
- B. An accurate description of the location and size of the premises upon which the building or structure is located, or upon which said building or structure is to be erected.
- C. A detailed description of work to be completed.
- D. The estimated cost of the building, structure or construction.
- E. The nature of the use for which the building is to be used.

§ 85-7. Fees.

- A. Fees for all permits issued pursuant to § 85-4 shall be established by resolution of the Town Council of the Town of Milton and shown in the schedule of fees. All construction not exceeding \$300 in material and labor shall be exempt from payment of a building permit fee; however, a permit is still required.
- B. Any permit issued pursuant to § 85-4, unless substantial work has commenced, shall become null and void 90 days after the date of issuing.
- C. If, in the opinion of the Town Council or their representative, the valuation of any building or structure for which a building permit is required appears to be underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimated cost to meet the approval of the Town Council or their representative. Permit valuation shall include the total cost, including such matters as plumbing, electrical, mechanical equipment, other systems and labor.

§ 85-8. Hours of construction. [Amended 8-1-2005]

- A. Construction shall be permitted between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 3:00 p.m. on Saturdays. No

