

Chapter 164. RENTAL LICENSES-PROPERTY

[HISTORY: Adopted by the Town Council of the Town of Milton 10-6-2003 (Ch. 6, Art. 2, of the prior Code). Amendments noted where applicable.]

GENERAL REFERENCES

Bed-and-breakfasts — See Ch. 76.

Housing standards — See Ch. 136.

§ 164-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: **Any word or term not defined herein shall be used with a meaning of standard usage**

AGENT

A person authorized to do any of the following on behalf of the landlord/owner:

A.

Make, contract for, and authorize necessary repairs to the rental housing/unit.

B.

Comply with the ordinances, notices and requests of the Town of Milton.

C.

Accept all communications, notices, orders and all types of service of process, relating to the rental housing/unit.

BED AND BREAKFAST

A single family, owner-occupied dwelling which is used for lodging for up to six transient guests at any one time, none of who remain for more than five consecutive nights each, and which provide no food or beverage service for the transient guest other than for breakfast provided in the areas of the dwelling generally utilized by the resident family for the consumption of food.

BUILDING

Any structure which is wholly or partially enclosed within exterior walls, is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

DWELLING

A building designed or used principally as the living quarters for one or more families in one or more dwelling units. Any building, structure, or portion thereof which is occupied as a residence, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof. Dwelling shall not include hotels, motels, inns or bed and breakfasts.

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DWELLING UNIT

One room or several rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities. One room or several rooms connected together, consisting of a separate, independent housekeeping establishment for owner occupancy, rental or lease, and containing independent cooking, living, sanitary and sleeping facilities.

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LANDLORD

The lessor of real property. Person or Persons who offers land, buildings, rooms, apartments or houses to others in exchange for monetary compensation and or other considerations.

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FAMILY

A single person occupying a dwelling unit and maintaining a household, or two or more persons related by blood or marriage or adoption occupying a dwelling unit, living together and maintaining a common household, or not more than three unrelated persons occupying a dwelling unit and maintaining a common household.

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HOTEL

A building, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining facilities. This term shall not be deemed to include an inn, bed and breakfast, boarding house, or other such accommodations.

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INN

A building containing a single dwelling unit in which more than four and less than 15 sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests, with or without meals.

MOTEL

A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term motel includes, but is not limited to, every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins," or "roadside hotel."

OWNER or LANDLORD

Any person or legal entity possessing a fee simple interest in property.

PERSON or PERSONS

Individuals, partnerships, firms, companies, associations and corporations.

RENTAL ROOMS

A dwelling room intended for living and sleeping accommodations for transient occupancy, which the owner or operator thereof provides for compensation. This is to include bed and breakfast rooms, inn rooms, motel rooms and hotel rooms.

RESIDENTIAL RENTAL UNIT

~~A dwelling unit, office, office space building or building space, which the owner or operator thereof provides for compensation.
Any building, structure, room, or enclosure, which is rented or offered for rent as living quarters. Residential rental units do not include Bed and Breakfasts, Hotels, Inns, or Motels.~~

TENANT

Any person ~~or persons~~ who occupies a rental unit or rental room with the landlord's consent and upon payment of ~~compensation or gives other considerations in exchange for occupancy~~ the required rent.

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§ 164-2. ~~Payment of license fee~~ License and registration required.

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~~All license fees shall be due and payable to the Town of Milton not later than the first day of January of each year or upon the inception of rental activity, and all licenses shall expire on the 31st of December following.~~

~~A. Each person, partnership, corporation, or other entity who rents or offers to rent any residential rental unit shall register to obtain a rental unit license and pay an annual fee as set forth in § 164-3 of this article~~

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§ 164-3. License fees.

~~[Amended 9-9-2013 by Ord. No. 2013-04]~~

License fees to be paid to the Town of Milton for rental licenses shall be at the relevant rate as established in the currently effective Town of Milton Fee Schedule.

§ 164-4. Application procedures.

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Applications for licenses pursuant to this chapter shall be made on the prescribed form to the Town of Milton, and no license shall be granted until the ~~applicant has met all provisions in Chapter 95 (Clean Hands Policy) of the Town Code of Milton and~~ license fee shall have been paid in full. Each applicant shall give the following information:

A.
The property owner's name.

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B.
The address and telephone number of the property owner.

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C.
The property address to be rented (street name and block number).

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D.
The name, address and telephone number of the agent, if any.

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E.

If license application relates to residential rentals, rental rooms or dwelling units, specify the number of sleeping rooms provided.

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F.

If the applicant is a partnership, the names and addresses of the individuals composing the partnership.

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G.

If the applicant is a corporation, the names and addresses of the principal officers of the corporation.

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H.

Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

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I.

A statement that the applicant ~~has:~~

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(1)

~~Shall comply~~ with all laws and ordinances of the Town of Milton.

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(2)

~~Paid all taxes and assessments due the Town of Milton upon the property, which the licensee will rent, if any.~~

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(2)

~~Shall provide~~ in each such rental unit a functioning smoke-detection device and those other safety devices required by the State Fire Marshal.

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(3)

~~Shall notify the Town of Milton in writing within 30 days after any change in the above requirements~~

§ 164-5. Investigation of applicants. Certification

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A.

~~Upon receipt of a license application under provisions of this article, the Town Administrator or his/her designee shall then within 10 business days perform an inspection of the residential rental property to determine whether such property complies with the applicable provisions of the Town of Milton Code (Chapter 136 Housing Standards). The Town Administrator or his/her designee shall issue a report on his/her findings. No license shall be issued if the premises and building do not comply with the applicable provisions within the Town of Milton Code.~~

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~~Upon receipt of an application, the Code Enforcement Officer or his/her representative may investigate and verify:~~

(1)

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When cause appears, investigate and review the applicant's criminal background, business practices and existing licenses the applicant may hold.

~~(2)~~
If the activity for which the license has been requested is prohibited by any ordinance of the Town or law of the State of Delaware.

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~~(3)~~
That all taxes, fees, fines, penalties, interest or assessments due the Town of Milton upon the property, which the licensee will rent, if any, are paid.

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~~B.~~
A license shall not be issued if it is found that the applicant does not comply with the requirements of this chapter or other Town ordinance.

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§ 164-6. Issuance and expiration

A. Upon proper application, payment of the prescribed fee and inspection, a license signed by the Town Administrator or his/her designee, shall be issued to each applicant.

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B. Each license shall be effective for the calendar year (January 1 through December 31) in which it is issued

§ 164-7. Inspection Access.

A. Property owners shall permit the Town Administrator or his/her designee to inspect all premises governed by this article to determine if the building is operated as a rental property and/or to determine compliance with the provisions of this article, and shall fully cooperate with such inspections. The property owner shall make reasonable efforts to notify tenants of planned inspections of their rental units to the extent required by state law.

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B. The property owner or his/her designee shall be present on the premises during inspections; however, failure of a property owner to comply with this requirement shall not deprive the Town of the authority to inspect.

C. When an inspection has been scheduled, it is the responsibility of the property owner or their appointed agent to make sure the subject property is ready by the time the inspector arrives on the site.

I. If an inspection needs to be cancelled or rescheduled the Town officials shall be notified no later than 8:45 am the day of the inspection.

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II. If the inspector arrives on site and the structure/property is not ready and the inspection was not properly cancelled or rescheduled, a fee of one hundred dollars (\$100.00) shall be paid at Town Hall before the inspection may be rescheduled.

III. When conditions of a property are such that cause more than one follow-up inspection, for the purpose of ensuring compliance, a fee of fifty dollars per inspection shall be imposed.

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D. Failure of a property owner to obey any of the requirements of this section shall subject the property owner to suspension or revocation of license, in addition to other

penalties provided for in this article. Any such suspension or revocation shall continue until the inspection has been completed, any violations satisfactorily remedied and any outstanding fees or penalties have been paid.

§ 164-68. Suspension or revocation of license.

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A. Any license issued pursuant to this chapter shall be subject to suspension or revocation by the Code Enforcement Officer, Town Administrator or his/her designee for:

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(1) A violation of any provision of this chapter or for grounds that would warrant the denial or issuance of such license in the first place.

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(2) Misrepresentation or false statement contained in the application for the license.

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(3) Delinquency in payment of any taxes, fees, fines, penalties, interest or assessments due the Town of Milton.

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(4) If by complaint filed with the Code Enforcement Officer, an inspection finds a rental unit or rental room that does not comply with Chapter 136, Housing Standards, of the Code of the Town of Milton, finds that the structure is unfit for human occupancy or use, or unsafe equipment or unsafe structure.

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B. The Code Enforcement Officer, upon revocation or suspension, shall state the reasons, in writing, and specify the particular grounds for such revocation or suspension.

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§ 164-79. Appeals.

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[Amended 9-9-2013 by Ord. No. 2013-04]

Any person aggrieved by a decision of the Code Enforcement Officer may, within 15 days, take an appeal to the Town Council by giving written notice of his election so to do to the Town Hall; and, upon payment of a fee, if any, as may be established in the currently effective Town of Milton Fee Schedule, the Town Administrator/Clerk shall notify the Secretary of the Town Council and shall transmit to the Secretary of the Town Council all the papers constituting the record upon which the decision appealed from was taken. Council shall set a date, time and place for the hearing of the appeal, which time and date shall be at the regular Town Council meeting,

so long as the applicable notice and time requirements may be met; if such applicable notice and time requirements cannot be met, then the appeal shall be held at either a special meeting or at the next regular Council meeting. Notice of the appeal shall be sent to the appellant and published in a newspaper of local circulation at least seven days prior to the scheduled hearing. The decision of the Mayor and Council shall be final, and any review shall be by writ of certiorari to the Superior Court of the State of Delaware.

§ 164-810. License to be posted.

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All licenses issued under this chapter shall be posted in the lobby, vestibule, rental office or other prominent public place on the premises for which it is issued during the entire period it is in effect. In the case of a single-family dwelling rental unit, it is sufficient if a copy of the license is provided the tenant.

§ 164-11. Tenant identification.

Licensees are required to provide names of tenants occupying residential rental property upon request of the Town.

§ 164-912. Transferability.

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A.

In the event the holder of a license transfers ownership or shall change his/her address, the holder shall notify the Town within 30 days of such change.

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B.

No license is transferable. Upon sale of the rental property, the new owner shall file an application for a new rental license accompanied by the appropriate fee as established in the currently effective Town of Milton Fee Schedule. The Town of Milton shall not issue a license until an inspection has been performed and structure/dwelling deemed in compliance with provisions of this Chapter
[Amended 9-9-2013 by Ord. No. 2013-04]

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C.

Whenever the ownership of the rental property changes hands, it shall be the duty of the transferor to notify all tenants of the rental of the name, address and location of the transferee and of the transferee's agent.

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§ 164-1013. Violations and penalties.

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[Amended 9-10-2012 by Ord. No. 2012-09]

A.

No person shall engage in, carry on, aid or assist in the business, occupation, or activity of providing a rental unit or rental room without having first obtained an annual rental license for said rental unit or rental room within the Town of Milton. Within 30 days of a request by the Town, any property owner who provides for rent any unit or room in conjunction with said

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property shall be required to verify the property's rental status on a declaration of property status form prescribed by the Town.

B.

Any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$300, plus costs, including Town Attorney's fees and Victim's Compensation Fund assessment for each offense, and for the purposes of this chapter, a separate offense shall be deemed to be committed on each day during or on which a violation occurs or continues.

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