

Town of Milton

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Memorandum

July 16, 2015

TO: Mayor and Town Council

FROM: John R. Collier, Project Coordinator

RE: Chapter 136 Housing Standards

Attached please find Chapter 136 Housing Standards. Within this document are already approved changes resulting from the review of the Rental Properties Checklist. Also included is proposed language requiring Carbon Monoxide Detectors (**highlighted in yellow**) in single family and multi-family residential units as well as residential rental units. The following are the highlights of the proposed Carbon Monoxide Detection language proposed:

- Be advised with the adoption of the 2012 International Building and Residential Codes all new single and multi-family residential units meeting defined criteria are now required to have carbon monoxide detectors.
- A reasonable timetable for required installation of carbon monoxide detectors in existing residential dwellings and residential rental units
- Definition of substantial renovation
- Definition for Acronyms of certain governing standards (NFPA) (U L)

Also included for consideration is a redefinition of the appeals process (**also highlighted in yellow**). The proposal mirrors the procedure currently defined in Chapter 85. Building Construction which is closely related. The proposed change would make the appeals procedure more consistent in closely related subject matters.

SECTION R315 CARBON MONOXIDE ALARMS

R315.1 Carbon monoxide alarms.

For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in *dwelling units* within which fuel-fired *appliances* are installed and in dwelling units that have attached garages.

R315.2 Carbon monoxide detection systems.

Carbon monoxide detection systems that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720, shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075. Where a household carbon monoxide detection system is installed, it shall become a permanent fixture of the occupancy, owned by the homeowner and shall be monitored by an approved supervising station.

Exception: Where carbon monoxide alarms are installed meeting the requirements of Section R315.1, compliance with Section 315.2 is not required.

R315.3 Where required in existing dwellings.

Where work requiring a *permit* occurs in existing *dwellings* that have attached garages or in existing *dwellings* within which fuel-fired *appliances* exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

R315.4 Alarm requirements.

Single-station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

Chapter 136. Housing Standards

[HISTORY: Adopted by the Town Council of the Town of Milton 10-6-2003 (Ch. 10, Arts. 1 and 2, of the prior Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction — See Ch. 85.
- Abandoned excavations — See Ch. 116.
- Fire prevention — See Ch. 121.
- Nuisances — See Ch. 152.
- Property maintenance — See Ch. 158.
- Rental Properties ---See Ch. 164
- Sewers — See Ch. 170.
- Water — See Ch. 215.
- Zoning — See Ch. 220.

Article I. Minimum Housing Standards

§ 136-1. Title.

This chapter shall be known and may be cited as the "Minimum Housing Standards Ordinance of the Town of Milton."

§ 136-2. Purpose; applicability.

The provisions of this chapter shall apply to all buildings or portions thereof used or designed or intended to be used for human habitation. The provisions are designed to eliminate or prevent substandard conditions with respect to structures, protect against fire hazards, provide for adequate space for light and air, provide for proper heating and ventilating and eliminate unsanitary conditions and overcrowding. The provisions of this chapter shall apply to existing residential structures or portions thereof used or designed or intended to be used for human habitation, except for hotels, motels, inns, nursing homes and convalescent homes.

§ 136-3. Compliance with minimum standards.

No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, rooming house, dwelling unit, or room unit which does not comply with the minimum standards set forth in this chapter.

§ 136-4. Definitions; word usage.

A.

Words used in the present tense include the future tense.

B.

For the purpose of this chapter, the singular includes the plural and the plural includes the singular.

C.

Whenever the words "multifamily dwelling," "residence building," "dwelling unit" or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

D.

Where terms are not defined under the provisions of this chapter, they shall have ascribed to them their ordinary accepted meanings or such as the context herein may apply.

E.

The following terms are defined as listed below:

APPROVED

As applied to a material, device or method of construction, shall mean approved by the Code Enforcement Official, under the provisions of this chapter or approved by other authority designated by law to give approval in the matter in question.

BASEMENT

That portion of a building, which is partly above grade and has at least 1/2 its height above grade. (See "cellar.")

BUILDING CODE

The building code of the Town.¹¹¹

BUILDING INSPECTOR

The Code Enforcement Officer or Building Inspector for the Town.

CELLAR

That portion of a building, which is partly or completely below grade and has more than 1/2 its height below grade.

CENTRAL HEATING

The heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable rooms, bathrooms and water closet compartments from a source outside of these rooms.

CODE ENFORCEMENT OFFICER

The Town official in charge of enforcement of this chapter. The Code Enforcement Officer is the person appointed for this purpose by the Town Council or their designee.

CONDEMN

To adjudge unfit for residential use or human occupancy.

CONDEMNATION

The act of judicially condemning.

DWELLING

A building designed or used principally as the living quarters for one or more families in one or more dwelling units.

DWELLING, DETACHED SINGLE-FAMILY

A building containing one dwelling unit and having two side yards. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, MULTIPLE-FAMILY

A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, SEMIDETACHED SINGLE-FAMILY

A building containing one dwelling unit and having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, SINGLE-FAMILY

A building containing one dwelling unit only. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, TWO-FAMILY

A building containing two dwelling units. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

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.

EXTERIOR PROPERTY AREAS

The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION

The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

FAMILY

An individual or two or more persons who are related by blood, marriage or adoption, living together and occupying a single dwelling unit with single culinary facilities, or a group of not more than three unrelated persons living together by joint agreement and occupying a single dwelling unit on a nonprofit, cost sharing basis. Domestic servants, employed and residing on the premises, shall be considered as part of the family.

FULL BATHROOM

Includes one toilet, basin/sink and bathtub.

GARBAGE

The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM

A room or enclosed floor space used or intended to be used for living, sleeping, or eating purposes, excluding bathrooms, toilet compartments laundries, foyers, pantries, communicating corridors, stairways, closets, basement, recreation rooms, and storage spaces.

HOTEL

An establishment that provides lodging and usually meals, entertainment, and various personal services for the public.¹²³

INFESTATION

The presence within or contiguous to a structure or premises of insects, rats, vermin or other pests.

NFPA National Fire Protection Association

OCCUPANT

Any person, including an owner or operator, living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

OPENABLE AREA

The part of the window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR

Any person having charge, care, management, or control of any dwelling or part of it, in which dwelling units or rooming units are let.

OVERCROWDED

A dwelling when its occupancy exceeds the maximum number of persons permitted by this chapter.

OWNER

Any person firm or corporation having legal or equitable interest to any dwelling unit or premises.

PLUMBING

The labor, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances.

PLUMBING FIXTURES

All water-heating facilities, water pipes, garbage disposal units, water closets, sinks, installed disposal dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and other similar supplied fixtures, together with all connections to water or sewer lines.

PREMISES

A lot, plot, or parcel of land, including the building and structures thereon.

PUBLIC NUISANCE

Includes the following:

(1)

The physical condition or use of any premises regarded as a public nuisance at common law;

(2)

Any physical condition, use or occupancy of any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to abandoned wells, shafts, basements, excavations and unsafe fences and structures;

(3)

Any premises designated as having unsanitary sewage or plumbing facilities;

(4)

Any premises designated as unsafe for human habitation or use;

(5)

Any premises which is manifestly capable of being a fire hazard or is manifestly unsecure so as to endanger life, limb or property;

(6)

Any premises from which the plumbing, heating or other facilities required by this chapter have been removed or from which utilities such as water, sewer, gas and electricity have been disconnected, destroyed, removed or rendered ineffective or the precautions against trespassers have not been provided;

(7)

Any premises which is unsanitary or which is littered with rubbish or garbage or which has uncontrolled growth of weeds; or

(8)

Any structure or building that is in an advanced state of dilapidation, deterioration or decay; has faulty construction; is overcrowded; is open, vacant or abandoned; is damaged by fire to the extent as not to provide adequate shelter; is in danger of collapse or structural failure; and is dangerous to anyone on or near the premises.

RENOVATION

Work on a building and its facilities to make it conform to present-day minimum standards of sanitation, fire and life safety.

Residential Rental Unit

Any building, structure, or room which is rented or offered for rent as living quarters. Residential rental units do not include Bed and Breakfast, Hotels, inns, or Motels.

ROOMING HOUSE

Any dwelling, or that part thereof containing one or more rooming units, in which space is let to three or more persons.

ROOMING UNITS

Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH

Combustible and noncombustible waste materials, except garbage, and the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

Substantial Renovation

Renovation costs exceeding twenty five percent (25%) of the current assessed value of the property.

SUPPLIES

UL Underwriters Laboratories

Installed, furnished or provided by the owner or operator at his expense.

VENTILATION

The process of supplying and removing air by natural or mechanical means to or from any space.

WORKMANLIKE STATE OF MAINTENANCE AND REPAIR

That such maintenance and repair shall be made in a reasonably skillful manner.

YARD

All ground, lawn, court, walk, driveway, or other spaces constituting part of the same premises as a dwelling.

[1]

Editor's Note: See Ch. 85, Building Construction.

[2]

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

§ 136-5. Findings.

The Mayor and Council of the Town of Milton have determined that it is in the interest of good government and the safety, health, and public welfare of the Town, its inhabitants and affairs that the residential dwelling units should be of sufficient size to insure that the residents and inhabitants of such residential dwelling units are not subjected to an undue danger or substantial likelihood thereof, of overcrowding, disease, unsanitary conditions or a living situation which is detrimental to the public welfare.

§ 136-6. Minimum size of residential dwelling unit.

Every residential dwelling located within the corporate limits of the Town of Milton shall have a minimum floor area of 1,100 square feet.

§ 136-7. Calculations of floor space.

Floor area shall be calculated on the basis of habitable room area. However, closet area and hall area within the dwelling unit, where provided, may count for not more than 10% of the required habitable floor area. At least 1/2 of the floor area of every habitable room shall have a ceiling height of not less than seven feet six inches. The floor area of any part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room to determine maximum permissible occupancy.

§ 136-8. Minimum floor area calculation.

A "floor area" is defined, for purpose of this chapter, as the sum of the gross horizontal areas of the portion of a structure utilized or intended to be utilized for single-family residential structures, measured from the interior faces of the interior walls, excluding the following areas:

A.

Attic or basement storage space;

B.

Mechanical utility equipment areas;

C.

Stairs or stairways;

D.

Garages;

E.

Open breezeways;

F.

Open or screened porches, patios, or decks.

§ 136-9. Retroactive/prospective application.

This chapter shall not pertain to any residential dwelling unit occupied as of the date of the enactment of this chapter. This chapter shall apply to any residential dwelling unit constructed, created or established after the effective date of this chapter, including but not limited to structures in existence at the time of the enactment of this chapter which do not contain a substandard residential dwelling unit as defined herein.

§ 136-10. Limit on unrelated occupants.

There shall be no more than three persons not related by blood or marriage residing in a dwelling unit as defined by this chapter. This provision does not apply to stepparents, who are legally married to the parent of a minor child.

§ 136-11. Maintenance of required equipment.

Every supplied facility, piece of equipment or utility, which is required under this chapter, and every chimney and smoke pipe shall be so constructed and installed that it will function safely and effectively and shall be maintained in sound working condition.

§ 136-12. Exterior of structures.

A.

General. The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment.

B.

Structural members. All supporting structural members of all structures shall be maintained structurally sound, free of deterioration and capable of safely bearing the dead and live loads imposed upon them.

C.

Exterior surfaces (foundations, walls and roof). Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition so as to exclude rats.

D.

Foundation walls. All foundation walls shall be maintained so as to carry the safe design and operating of dead and live loads, plumb and free from open cracks and breaks, except as necessary to release excessive water pressure on the wall so as not to be detrimental to public safety and welfare.

E.

Exterior walls. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers and any other condition, which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including wood, composition or metal siding, shall be maintained weatherproof so as to prevent deterioration.

F.

Roofs. The roof shall be ~~structurally sound and tight~~ maintained and in good repair ~~not have~~ without obvious defects, which might admit rain, ~~and~~ roof drainage or vermin and shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building.

G.

Decorative features. All cornices, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

H.

Signs, marquees and awnings. All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good

repair, shall be properly anchored so as to be kept in a safe and sound condition and shall be protected from the elements and against decay.

I.
Chimneys. All chimneys, cooling towers, smokestacks and similar appurtenances shall be maintained structurally safe, sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay.

J.
Railings. Stairs and porches. Every stair, porch, balcony and all appurtenances attached thereto shall be so maintained as to be safe to use and capable of supporting the loads to which it may be subjected and shall be maintained in sound condition and repair.

K.
Windows, doors and frames. Every window, door and frame shall be maintained, in such relation to the adjacent wall construction, so as to exclude rain as completely as possible and to substantially exclude wind from entering the building.

L.
Windows and doors to be ~~weathertight~~weather tight. Every window and exterior door shall be fitted reasonably in its frame and be ~~weathertight~~weather tight. Weather stripping shall be used as necessary to exclude wind or rain from entering the dwelling or structure and shall be kept in sound condition and good repair.

M.
Glazing. Every required window sash shall be fully supplied with glazing materials, which securely hold in place window glass.

N.
Openable windows. Every window, other than a fixed window, shall be capable of being opened and shall be held in position by window hardware. One-half of the window area is to be openable.

O.
Door hardware. Every exterior door, door hinge and door latch shall be maintained in good condition. Door locks in dwelling units shall be in good repair and capable of tightly securing the door.

P.
Basement and window hatchways. Every basement or cellar hatchway or window shall be so maintained as to prevent the entrance of ~~rats~~vermin, rain and surface drainage into the structure.

§ 136-13. Interior of structures.

A.
General. The interior of a structure and its equipment shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the health and safety of the occupants and to protect the occupants from the environment.

B.
Structural members. The supporting structural members of every building shall be maintained structurally sound, not showing any evidence of deterioration which would render them incapable of carrying the imposed loads.

C.
Interior surfaces. Floors, walls, including windows and doors, ceilings and other interior surfaces shall be maintained in a good, clean and sanitary condition.

D.

Bathroom and kitchen floors. Every toilet, bathroom and kitchen floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

E.

Free from dampness. Cellars, basements and crawlspaces shall be maintained free from standing water so as to prevent conditions conducive to decay or deterioration of the structure.

F.

Sanitation. The interior of every structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, refuse or garbage. Rubbish, garbage and other refuse shall be properly kept inside temporary storage facilities.

G.

Storage. Garbage or refuse shall not be allowed to accumulate or be stored in public halls or stairways.

H.

Insect and rat harborage. All structures shall be kept free from insect and rat infestation, and, where insects or rats are found, they shall be promptly exterminated by acceptable processes, which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

I.

Exit doors. Every door available as an exit shall be capable of being opened easily from the inside.

J.

Stairs, porches and railings. Stairs, porches, railings and other exit facilities shall be adequate for safety.

K.

Exit facilities. All interior stairs and railings and other exit facilities of every structure shall be maintained in sound condition and good repair by replacing treads and risers that evidence excessive wear or are broken, warped or loose. Every inside stair shall be so constructed and maintained as to be safe to use and capable of supporting the anticipated loads.

§ 136-14. Light, ventilation and space.

A.

General. All spaces or rooms shall be provided sufficient light so as not to endanger health and safety. All spaces or rooms shall be provided sufficient natural or mechanical ventilation so as not to endanger health and safety. Where mechanical ventilation is provided in lieu of the natural ventilation, such mechanical ventilating system shall be maintained in operation during the occupancy of any structure or portion thereof.

B.

Light in habitable rooms. Every habitable room, except kitchens, toilet rooms, basement or cellar rooms and interior rooms of townhouses and row houses, shall have at least one window facing directly to the outdoors, a court or a porch. Every habitable room, except kitchens and toilet rooms, shall have at least one door or window, which can be opened to adequately ventilate the room. Kitchens, toilet rooms without windows, basement or cellar rooms and interior rooms of townhouses and row houses shall have natural or mechanical ventilation.

C.

Common halls and stairways. Every common hall and stairway in every building, other than single-family dwellings, shall be adequately lighted at all times with an illumination of at least a sixty-watt

light bulb or its equivalent. Such illumination shall be provided throughout the normally traveled stairs and passageways.

D.

Other spaces. All other spaces shall be provided with natural or artificial light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions and the safe use of the space and the appliances and fixtures.

E.

Toilet rooms. Every bathroom and water-closet compartment shall comply with the light and ventilation requirements for habitable rooms as required by Subsection B of this section, except that a window shall not be required in bathrooms or water-closet compartments equipped with an approved mechanical ventilation system.

F.

Cooking. Primary cooking facilities shall not be permitted in any sleeping room or dormitory unit, except for efficiency apartments.

G.

Separation of unit. Dwelling units shall be separate and apart from each other. With the exception of crib rooms or rooms accommodating handicapped individuals, sleeping rooms shall not be used as the only means of access to other sleeping rooms.

H.

Privacy. Hotel units, lodging units and dormitory units shall be designed to provide privacy and be separate from other adjoining spaces.

I.

Common access. A habitable room, bathroom or water-closet compartment, which is accessory to a dwelling unit, shall not open directly into or be used in conjunction with a food store, barber or beauty shop, doctor's or dentist's examination or treatment room or similar room used for public purposes.

J.

Basement rooms and cellar rooms. Basement and cellar rooms partially below grade shall not be used for sleeping purposes, unless the basement and cellar room (or rooms) is (are) within the specifications for sleeping rooms as provided for in this chapter.

K.

Dwelling units. Every dwelling unit shall contain a minimum gross floor area of not less than 150 square feet for the first occupant and 100 square feet for each additional occupant. The floor area shall be calculated on the basis of the total area of all habitable rooms.

L.

Area for sleeping purposes. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet of floor area for each occupant.

M.

Overcrowding. If any room used for residential purposes is overcrowded as defined in this section, the Code Enforcement Officer may order the number of persons sleeping or living in said room to be reduced.

N.

Prohibited use. It shall be prohibited to use for sleeping purposes any kitchen, non-habitable space or public space.

O.

Minimum ceiling heights. Habitable rooms shall have a clear ceiling height over the minimum area required by this chapter at not less than seven feet four inches, except that in attics, basements or top half stories the ceiling height shall be not less than seven feet over not less than 1/3 of the minimum area required by this chapter when used for sleeping, study or similar activity. In calculating the floor area of such rooms, only those portions of the floor area of the room having a clear ceiling height of five feet or more may be included.

§ 136-15. Plumbing facilities and fixtures.

A.

General. Every dwelling unit shall include its own plumbing facilities, which are in proper operating condition, can be used in privacy and are adequate for personal cleanliness and the disposal of human waste. All plumbing is to be installed in accordance with the State Plumbing Code.

B.

Water closet and lavatory. Every dwelling unit shall contain a lavatory and a water closet supplied with cold running water. The water closet shall not be located in a habitable room. The lavatory may be placed in the same room as the water closet, or, if located in another room, the lavatory shall be located in close proximity to the door leading directly into the room in which said water closet is located. The lavatory shall be supplied with hot and cold running water.

C.

Bathtub or shower. Every dwelling unit shall contain a room which affords privacy to a person in said room and which is equipped with a bathtub or shower supplied with hot and cold running water.

D.

Sink. Every dwelling unit shall contain a kitchen sink, apart from the lavatory required under Subsection B of this section, and shall be supplied with hot and cold running water.

E.

Rooming house. At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house, wherever said facilities are shared. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times.

F.

Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub, accessible from a public hallway, shall be provided on each floor. Each lavatory, bathtub or shower shall be supplied with hot and cold water at all times.

G.

Privacy. Toilet rooms and bathrooms shall be designed and arranged to provide privacy.

H.

Direct access. Toilet rooms and bathrooms shall not be used as a passageway to a hall or other space or to the exterior. At least one toilet or bathroom in a dwelling unit shall be accessible from any sleeping room without passing through another sleeping room.

I.

Same story. Toilet rooms and bathrooms serving hotel units, lodging units or dormitory units, unless located within such respective units or directly connected thereto, shall be provided on the same story with such units and be accessible only from a common hall or passageway.

J.

Floors. Bathrooms and toilet rooms shall be provided with floors of moisture-resistant material.

K.
Connections. Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and capable of performing the function for which they are designed.

L.
Clean and sanitary maintenance. All plumbing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rats or produce dangerous or offensive gases or odors.

M.
Access for cleaning. Plumbing fixtures shall be installed so as to permit easy access for cleaning both the fixtures and the areas about them.

N.
Water conservation. Plumbing fixtures, which are replaced, shall be of water-saving construction and use.

O.
Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the overflow rim of the fixture.

P.
Supply. The water supply systems shall be installed and maintained to provide, at all times, a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily.

Q.
Water-heating facilities. Water-heating facilities shall be properly installed, properly maintained and properly connected with hot-water lines to the fixtures required to be supplied with the hot water. Water-heating facilities shall be capable of heating water to such a temperature so as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub, shower and laundry facility or other similar units, at a temperature of not less than 120° F.

R.
Connections. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other facility shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

S.
Maintenance. Every plumbing stack and waste and sewer line shall be so installed and maintained as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards.

T.
Storm drainage. An approved system of storm water disposal shall be provided and maintained for the safe and efficient drainage of roofs and paved areas, yards and courts and other open areas on the premises.

§ 136-16. Heating, cooking and refrigeration.

A.
Heating. Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 65° F. at a point three feet above the floor and three feet from an exterior wall in all habitable rooms, bathrooms and toilet rooms.

(1)

Portable heating equipment employing a flame and heating equipment using gas, gasoline or kerosene do not meet the standards of this chapter as a minimum source of heat.

B.

Cooking facilities. In every dwelling unit that contains cooking and baking facilities for the purpose of preparation of food, such facilities shall be properly installed by the owner and operated and kept in a clean and sanitary working condition by the occupant.

(1)

Portable cooking equipment employing flame and cooking equipment housing gas, gasoline or kerosene as fuel for cooking are prohibited.

C.

Refrigeration. In every dwelling unit that contains a refrigeration unit for the temporary preservation of perishable foods, such unit shall be capable of maintaining an average temperature below 45° F. and shall be properly installed by the owner and operated and kept in a clean and sanitary working condition by the occupant.

D.

Cooking and heating equipment. All cooking and heating equipment, components and accessories in every heating, cooking and water-heating device shall be maintained free from leaks and obstructions and kept functioning properly so as to be free from fire, health and accident hazards.

E.

Installation. All mechanical equipment shall be properly installed and safely maintained in good working condition and be capable of performing the function for which it was designed and intended.

F.

Flue. All fuel-burning equipment designed to be connected to a flue, chimney or vent shall be connected in an approved manner.

G.

Clearances. All required clearances from combustible materials shall be maintained.

H.

Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

I.

Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided to the fuel-burning equipment.

J.

Fireplaces. Fireplaces and other devices intended for the use similar to a fireplace, including wood and coal-burning stoves, shall be stable and structurally safe and connected to approved chimneys.

K.

Climate control. When facilities for interior climate control (heating, cooling or humidity) are integral functions of structures used as dwelling units, such facilities shall be maintained and operated in a continuous manner in accordance with the designed capacity.

§ 136-17. Electrical facilities.

A.

Outlets required. Where there is electric service available to a structure, every habitable room of a dwelling unit and every guest room shall contain at least two separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture. In a kitchen, three separate and remote wall-

type electric convenience outlets, or two such convenience outlets and one ceiling or wall-type electric light fixture shall be provided. Every public hall, water-closet compartment, bathroom, laundry room or furnace room shall contain at least one electric light fixture. In addition to the electric light fixture in every bathroom and laundry room, there shall be provided at least one electric outlet. Any new bathroom outlet shall have ground-fault circuit interrupter protection. Every such outlet shall be maintained in good and safe working condition and shall be connected to the source of electrical power in a safe manner.

B. Installation. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

C. Defective system. Where it is found, in the opinion of the Code Enforcement Official, that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient outlets, improper wiring or installation, deterioration or damage or for similar reasons, the Code Enforcement Official shall require the defects to be corrected to eliminate the hazard.

§ 136-18. Fire & Safety.

A. General. A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street or to a yard, court or passageway leading to a public open area at grade. All fire-protection and life-safety devices and equipment shall be maintained in accordance with the provisions of the State Fire Prevention Rules and Regulations of the State of Delaware.

B. Direct exit. Every dwelling unit or guest room shall have access directly to the outside or to a public corridor.

C. Locked doors. All doors in the required means of egress shall be readily openable from the inner side. Exits from dwelling units, hotel units, lodging units and dormitory units shall not lead through other such units or through toilet rooms or bathrooms.

D. Fire escapes. All required fire escapes shall be maintained in working condition and structurally sound.

E. Exit signs. All exit signs shall be maintained, illuminated and visible.

F. Accumulations. Waste, refuse or other materials shall not be allowed to accumulate in stairways, passageways, doors, windows, fire escapes or other means of egress.

G. Flammable matter. Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible refuse, such as waster paper, boxes and rags, shall not be accumulated or stored on residential premises except in reasonable quantities consistent with normal usage.

H. Residential unit. A dwelling unit or rooming unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 110° F. or lower.

I.
Fire alarms. Fire alarms and detecting systems shall be maintained and be suitable for their respective purposes.

J.
Fire-suppression systems. Fire-suppression systems shall be maintained in good condition, free from mechanical injury. Sprinkler heads shall be maintained clean, free of corrosion and paint and not bent or damaged.

K.
Fire extinguishers. All portable fire extinguishers shall be visible and accessible and maintained in an efficient and safe operating condition.

L.
Smoke-detector system. Every dwelling unit shall be provided with an approved smoke detector tested and installed in accordance with the Fire Prevention Rules and Regulations of the State of Delaware. When activated, the detector shall be tested in accordance with and meet the requirements of UL 217, Single and Multiple Station Smoke Detectors.

M.
Carbon Monoxide Detectors. All new single family or multi-family dwellings constructed after July 1, 2015 which use a fossil fuel burning heater or appliance, fireplace, or have an attached garage shall have a UL 2034 or UL 2075 Standard for Single and Multiple Station Carbon Monoxide Alarm system installed in accordance with the current NFPA 720 Chapter 9 on every habitable level as required by the 2012 International Residential Code Section R315. All single family or multi-family dwellings including rental properties substantially renovated after January 1, 2016 which use a fossil fuel burning heater or appliance, fireplace, or have an attached garage shall have a UL 2034 or UL 2075 Standard for Single and Multiple Station Carbon Monoxide Alarm system installed in accordance with the current NFPA 720 Chapter 9 on every habitable level. All existing rental properties which use a fossil fuel burning heater or appliance, fireplace, or an attached garage shall have a UL 2075 Standard for Single and Multiple Station Carbon Monoxide Alarm system installed in accordance with the current NFPA 720 Chapter 9 on every habitable level by January 1, 2017.

§ 136-19. Responsibilities of owners and occupants.

A.
Cleanliness. Every occupant of a structure or part thereof shall keep that part of the structure or premises thereof, which that occupant occupies, controls or uses, in a clean and sanitary condition. Every owner of a dwelling containing two or more dwelling units shall maintain, in a clean and sanitary condition, the shared or public areas of the dwelling and premises thereof.

(1)
The owner of the dwelling is responsible for the cleaning of the occupant's area before the space is rented to the occupant. Where bedding, bed linen or towels are supplied, the owner or operator shall maintain the bedding in a clean and sanitary manner, and he shall furnish clean bed linen at least once every week and clean towels each day.

B.

Disposal of rubbish. Every occupant of a structure or part thereof shall dispose of all rubbish in a clean and sanitary manner by placing it in rubbish containers, equipped with tight-fitting covers, as required by this chapter.

C.

Disposal of garbage. Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner, securely wrapping such garbage and placing it in tight garbage storage containers as required by this chapter, or by such other disposal method as may be required by applicable laws or ordinances.

D.

Rubbish storage facilities. Every dwelling unit shall be supplied with approved containers and covers for storage of rubbish, and the owner, operator or agent in control of such dwelling shall be responsible for the removal of such rubbish.

E.

Food preparation. All spaces used or intended to be used for food preparation shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage when necessary.

F.

Supplied fixtures and equipment. The owner or occupant of a structure or part thereof shall keep the supplied equipment and fixtures therein clean and sanitary and shall be responsible for the exercise of reasonable care in their proper use and operation.

G.

Furnished by occupant. The equipment and fixtures furnished by the occupant of a structure shall be properly installed and shall be maintained in good working condition, kept clean and sanitary and free of defects, leaks or obstructions.

§ 136-20. Extermination.

A.

Owner. The owner of any structure shall be responsible for extermination of insects, rats, vermin or other pests within the structure prior to renting, leasing or selling the structure.

B.

Tenant-occupant. The tenant-occupant of any structure shall be responsible for the continued rat-proof condition of the structure, and, if the tenant-occupant fails to maintain the rat-proof condition, the cost of extermination shall be the responsibility of the tenant-occupant.

C.

Single occupancy. The occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rats or other pests in the structure or on the premises.

D.

Multiple occupancy. Every owner, agent or operator of two or more dwelling units or multiple occupancies or rooming houses shall be responsible for the extermination of any insects, rats or other pests in the public or shared areas of the structure and premises.

E.

Extermination procedures. The owner is responsible for making the structure rodent-proof. All baits used for extermination shall be used as stated on the package label.

§ 136-21. Utilities.

No owner, operator or occupant shall cause any service equipment or utility which is required by this chapter to be removed, shut off or disconnected for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies.

§ 136-22. Duty to advise occupant of maximum occupancy.

Every owner or operator shall advise the occupant, in writing either by insertion in the lease between the parties or otherwise, of the maximum number of occupants permitted in the occupied premises under this chapter.

§ 136-23. Duty of owner to supply heat.

During that time of the year when it is necessary, every owner or operator of every two-family, multifamily dwelling and rooming house shall supply adequate heat fixtures and equipment to every habitable room therein except where there are separate heating facilities for each dwelling unit, whose facilities are under the sole control of the occupant of such dwelling unit.

Article II. Administration and Enforcement

§ 136-24. Applicability.

The provisions of this article shall govern the administration and enforcement procedures of the Town of Milton Housing Code.

§ 136-25. Administrative liability.

A.

Except as may otherwise be provided by state or county statute, no officer, agent or employee of the Town of Milton, charged with the enforcement of this chapter, shall be rendered personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of duties under this chapter.

B.

No person who institutes or assists in the prosecution of a criminal proceeding under this chapter shall be liable for damage therefor, unless such person acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.

C.

Any civil suit brought against any officer, agent or employee of the Town of Milton as a result of any act required or permitted in the discharge of duties under this chapter shall be defended by the Town of Milton Attorney until the final determination of the proceedings therein.

§ 136-26. Conflicts of interest.

No officer or employee who has an official duty in connection with the administration and enforcement of this chapter shall be financially interested in the furnishing of labor, materials or

appliances for the construction, alteration or maintenance of a building or in making the plans or specifications therefor, unless that person is the owner of such building. No such officer or employee shall engage in any activity which is inconsistent with the public interest and the officer's official duties. Any member of a Board of Adjustment and Appeals, as established under § 136-36 of this chapter, who has a similar conflicting interest in the subject matter on appeal, shall not participate in the voting; however, solely because that member's vote is counted will not make the decision void or voidable if the Board of Adjustment and Appeals, with or without knowledge of the material facts as to that member's interest, decided in good faith by a sufficient vote not counting the vote of the interested Board of Adjustment and Appeals member.

§ 136-27. Records.

The Code Enforcement Officer shall keep or cause to be kept records concerning the enforcement of this chapter's provisions, which records shall be open to public inspection.

§ 136-28. Powers and duties of Code Enforcement Officer.

A.

General. The Code Enforcement Officer shall enforce all the provisions of this chapter relative to the maintenance of structures and premises, except as may otherwise be specifically provided by other regulations.

B.

Notices and orders. The Code Enforcement Officer shall issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with the chapter requirements for the safety, health and general welfare of the public.

C.

Inspections.

(1)

In order to safeguard the safety, health and welfare of the public, the Code Enforcement Officer is authorized to enter any structure or premises at any reasonable time for the purpose of making inspections and performing duties under this chapter.

(2)

If any owner, occupant or other person in charge of a structure subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and free access to any part of the structure or premises where inspection authorized by this chapter is sought, the Code Enforcement Officer may seek, in a court of competent jurisdiction, an order that such owner, occupant or other person in charge cease and desist with such interference.

(3)

Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this chapter.

D.

Credentials. The Code Enforcement Officer or the Code Enforcement Officer's authorized representative shall disclose proper evidence of his respective office for the purpose of demonstrating authority to inspect any and all buildings and premises in the performance of duties under this chapter.

E.

Annual report. At least annually, the Code Enforcement Officer shall submit to the Mayor and Council a written statement of activities in a form and content as shall be prescribed.

§ 136-29. Condemnation.

A.

General. When a structure is found by the Code Enforcement Officer to be unsafe or when a structure or part thereof is found unfit for human occupancy or use, it may be condemned pursuant to the provisions of this chapter and may be placarded and vacated. Such condemned structure shall not be reoccupied without approval of the Code Enforcement Officer, but such approval may not be withheld upon completion of specified corrections of violations.

B.

Definitions. As used in this section, the following terms shall have the meanings indicated:

STRUCTURE UNFIT FOR HUMAN OCCUPANCY OR USE

Whenever the Code Enforcement Officer finds that a structure is unsafe or because it lacks maintenance and is in extreme disrepair, is unsanitary, vermin or rat infested, contains filth and contamination or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this chapter.

UNSAFE EQUIPMENT

Includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid container or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property or safety of the public or occupants of premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

UNSAFE STRUCTURE

One in which all or part thereof is found to be dangerous to life, health, property or the safety of the public or the structure's occupants because it is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that it is likely to partially or completely collapse.

C.

Closing of vacant structures. If the structure or part thereof is vacant and unfit for human habitation, occupancy or use and is not in danger of structural collapse, the Code Enforcement Officer may post a placard of condemnation on the premises and may order the structure closed up so it will not be an attractive nuisance to youngsters. Upon failure of the owner to close up the premises within the time specified in the order, the Code Enforcement Officer shall cause it to be closed through any available public agency or by contract or arrangement by private persons, and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate in accordance with § **136-37** of this chapter.

§ 136-30. Notices and orders.

A.

Notice to owner or to person or persons responsible. Whenever the Code Enforcement Officer determines that there has been a violation of this chapter or has reasonable grounds to believe that a violation has occurred or whenever the Code Enforcement Officer has condemned any structure or equipment under the provisions of § **136-29** of this chapter, notice shall be given to the owner or the person or persons responsible therefor in the manner prescribed below. If the Code Enforcement Officer has condemned the property or part thereof, the Code Enforcement Officer shall give notice

to the owner and to the occupants of the intent to placard and to order vacation of the premises or to order equipment out of service.

B.

Such notice shall:

(1)

Be in writing.

(2)

Include a description of the real estate sufficient for identification.

(3)

Include a statement of the reason or reasons why it is being issued.

(4)

Include a correction order allowing a reasonable time for the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this chapter.

(5)

Include an explanation of the owner's and/or occupant's right to seek modification or withdrawal of the notice by petition to a Board of Adjustment and Appeals.

(6)

State penalties for noncompliance.

C.

Service of notice and orders. Service shall be deemed to be properly served upon such owner and/or occupant:

(1)

If a copy thereof is delivered to the owner and/or occupant personally;

(2)

By leaving the notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion, who shall be informed of the contents thereof;

(3)

By certified or registered mail addressed to the owner at the last known address with return receipt requested;

(4)

If the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place on or about the structure affected by such notice, and at least one publication of such notice in a local newspaper of general circulation.

D.

Service on occupant. When a condemnation order is served on an occupant other than the owner or person responsible for such compliance, a reasonable time to vacate the property after noncompliance shall be stated. Owners or persons responsible for compliance must vacate at the time set for correction of defects if there is failure of compliance.

E.

Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such property to another until the provisions of the compliance order or notice of violation has been complied with or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Enforcement Officer and shall furnish to the Code Enforcement Officer

a signed and notarized statement from the grantee, transferee, mortgagee or lessee acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility, without condition, for making the corrections or repairs required by such compliance order or notice of violation.

§ 136-31. Placarding.

A.

Placarding of structure. After the condemnation notice required under the provisions of this chapter has resulted in an order by virtue of failure to comply within the time given, the Code Enforcement Officer may post on the premises or structure or parts thereof or on defective equipment a placard bearing the words "Condemned as Unfit for Human Occupancy or Use" and a statement of the penalties provided for any occupancy or use or for removing the placard. The owner or the person or persons responsible for the correction of violations and all other occupants shall remove themselves from the property on failure to comply with the correction order in the time specified.

B.

Prohibited use. Any person who shall occupy a placarded premises or structure or part thereof or shall use placarded equipment and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be subject to the penalties set forth in § 136-34 of this chapter.

C.

Removal of placard. The Code Enforcement Officer shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Enforcement Officer shall be subject to the penalties provided by this chapter.

§ 136-32. Emergency orders.

A.

General. Whenever the Code Enforcement Officer finds that an emergency exists on any premises or in any structure or part thereof or on any defective equipment, which requires immediate action to protect the public's health and safety or that of the occupants thereof, the Code Enforcement Officer may, with proper notice and service in accordance with the provisions of § 136-30 of this chapter, issue an order reciting the existence of such an emergency and requiring the vacating of the premises or such action taken as the Code Enforcement Officer deems necessary to meet such emergency. Notwithstanding other provisions of this chapter, such order shall be effective immediately, and the premises or equipment involved shall be placarded immediately upon service of the order.

B.

Hearing. Any person to whom such order is directed shall comply therewith. He may thereafter, upon petition directed to a Board of Adjustment and Appeals, be afforded a hearing as prescribed in this chapter. Depending upon the findings of the Board of Adjustment and Appeals at such hearing as to whether the provisions of this chapter and the rules and regulations adopted pursuant thereto have been complied with, the Board of Adjustment and Appeals shall continue such order or modify or revoke it.

§ 136-33. Failure to comply.

Failure to comply with orders and notices shall be subject to the penalties set forth in § 136-34 of this chapter.

§ 136-34. Violations and penalties.

A.

Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure or equipment regulated by this chapter or cause the same to be done, contrary to or in conflict with or in violation of any of the provisions of this chapter.

B.

Penalty for violation. Any person who shall violate any provision of this chapter or who fails to comply with any notice or order issued by the Code Enforcement Officer pursuant to the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or be imprisoned for a term not exceeding 30 days, or both. Except where an appeal is taken, each day of a separate and continuing violation shall be deemed a separate offense. The nearest Justice of the Peace Court shall have exclusive and original jurisdiction over offenses prosecuted under this chapter.

C.

Prosecution. In case any violation order is not promptly complied with, the Code Enforcement Officer may direct the Town of Milton Attorney to institute an appropriate action or proceeding at law to seek the penalty provided in Subsection B of this section. Also, the Code Enforcement Officer may ask such legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:

(1)

To restrain, correct or remove the violation or refrain from any further execution of work;

(2)

To restrain or correct the erection, installation or alteration of such structure;

(3)

To require the removal of work in violation; or

(4)

To prevent the occupancy or use of the structure or part thereof erected, constructed, installed or altered in violation of or not in compliance with the provisions of this chapter or in violation of a plan or specification under which an approval, permit or certification was issued.

§ 136-35. Demolition orders.

A.

General. The Code Official may order the owner of premises upon which is located any structure or part thereof which, in the Code Officer's judgment, is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use so that it would be unreasonable to repair the same, to raze and remove such structure or part thereof or, if it can be made safe by repair, to repair and make safe and sanitary or to raze and remove at the owner's option or, where there has been a cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure or part thereof.

B.

Order. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or an agent where an agent is in charge of the building and upon the holder of any lien in the manner provided for service of a summons by a court of record. If the owner or a holder of a lien of record cannot be found, the order may be served by posting it on the main entrance of the building and by publishing it once each week, for three

successive weeks, in a newspaper of general circulation in accordance with the rules of the Superior Court.

C.

Restraining actions. Anyone affected by any such order may, within 30 days after service of such order, apply to a court of record for an order restraining the Code Official from razing and removing such structure or parts thereof. The court shall determine whether the order of the Code Official is reasonable, and, if found unreasonable, the court may issue a restraining order.

D.

Failure to comply. Whenever the owner of a property fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure or part thereof to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate as provided in § 136-37 of this chapter.

E.

Salvage materials. When any structure has been ordered razed and removed, the Code Enforcement Officer or other designated officer may sell the salvage and valuable materials resulting from such razing or removal; such materials to be sold at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the use of the person who may be entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

§ 136-36. Appeals. § 136-36. Appeals.

~~If the property owner feels, in their opinion, that the Town's Code Enforcement Officer has made an error or when the true intent and meaning of this chapter has been misconstrued or wrongly interpreted, they may appeal the decision to the Mayor and Council. Notice of appeal shall be in writing and filed within 30 days after the Town Code Enforcement Officer renders the decision.~~

A.

~~Board of Adjustment and Appeals; composition. There shall be created a Board of Adjustment and Appeals, which shall consist of five members appointed by the Mayor. The terms of the members shall be staggered. The first and second appointees shall serve for terms of two years; the third and fourth appointees shall serve for terms of three years; and the fifth appointee, who shall serve as Chairperson, shall serve for a term of four years. Any appointment, pursuant to the provisions hereof, to replace a member whose position becomes vacant prior to the expiration of that person's term shall be filled only for the remainder of that term.~~

§ 136-37. Establishment of Board of Appeals

~~There is established in the Town, a Board of Appeals which shall consist of three members, the Mayor of the Town and two elected members of the Town Council. The Town Solicitor is not a member and does not vote, but advises the Board.~~

B.

~~Rules and regulations. The Board of Adjustment and Appeals shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of this chapter or the laws of the State of Delaware.~~

§ 136-38 Quorum

Any two members of the Board shall constitute a quorum. In reversing or modifying the action of the Code Enforcement Officer or the application of the housing standards, an affirmative vote of a majority of all the members of the Board shall be required. No member of the Board of Appeals shall act in a case in which he has a personal interest.

C.

Procedure for appeals—Any person aggrieved by an action taken by the Code Enforcement Officer may appeal from such action by filing written notice of appeal with the Board of Adjustment and Appeals within 10 days after the giving or posting of notice of such action. An appeal under this subsection shall stay the effect of the notice of violation or condemnation and shall prevent the Code Enforcement Officer from proceeding with the remedies provided under this chapter pending decision by the Board of Adjustment and Appeals. An appeal to the Superior Court by an aggrieved person from a decision of such Board of Adjustment and Appeals shall be made in the manner provided for appeals from administrative decisions.

§ 136-39 Procedure

Within five days following receipt of the notice of appeal, the Code Enforcement Officer shall transmit to the Town Manager and/or his/her designee all the papers constituting the record upon which the decision was taken. No later than 30 days following receipt of the notice of appeal by the Town Manager and/or his/her designee, the Mayor of the Town shall set a time, date and place for the hearing of the appeal by the Board of Appeals. All meetings of the Board shall be open to the members of the general public. The Board shall keep minutes and records of its proceedings, showing the evidence received at the hearing, the vote of each member upon each question considered, and indicating the absence of a member or failure of a member to vote if such was the fact. An application fee as specified in the currently effective Town of Milton Fee Schedule shall be paid to the Town Manager and/or his/her designee at the time of filing the notice of appeal. The Board shall consider no appeal until the required fee is paid.

§ 136-40. Rules; administration of oaths; meetings

The Board shall adopt rules of procedure in order to carry out the intent of this chapter. The Mayor shall serve as Chairman of the Board of Appeals and shall appoint a Vice Chairman. The Chairman or, in his absence or disqualification, the Vice Chairman shall administer the oaths and may compel the attendance of witnesses. Meetings of the Board shall be at the call of the Chairman or, in his absence or disqualification, by the Vice Chairman.

§ 136-41 Decisions.

Every decision of the Board of Appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the Town Hall office and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant, and a copy shall be kept publicly posted in Town Hall for a period of two weeks after filing.

D.

Vote. The Board of Adjustment and Appeals shall hear all appeals relative to the enforcement of this chapter within a reasonable period of time after the filing of an appeal and, by a concurring vote of

~~the majority of its members may reverse or affirm wholly or partly or may modify the action appealed from and shall make such other order or determination as it deems just. Failure to secure such concurring votes shall be deemed a confirmation of the decision of the Code Enforcement Officer.~~

~~F~~
~~Financial interest~~ A member of the Board of Adjustment and Appeals shall not participate in any hearings or vote on any appeal in which that member has a direct or indirect financial interest.

~~F~~
~~Records~~ The Board of Adjustment and Appeals shall keep a written or recorded record of each meeting showing clearly the basis for each decision made by the Board.

§ 136-3742. Creation of tax liens.

There is hereby created a tax lien on real property for moneys expended by the county or a community for razing, demolition, removal or repairs of buildings or abatement of other unsafe conditions constituting a threat to the public health and safety where the responsible party refuses or fails to comply with the lawful order of the Code Official after due notice thereof, either actual or constructive. Upon certification of a tax lien to the appropriate county or community official by the Code Official, the amount of such lien shall be recorded and collected in the same manner as other county real estate taxes and paid to the county or community, when collected, by the appropriate county government.

§ 136-3843. Transfer of responsibilities.

A contract effective as between owner and operator, operator and occupant, or owner and occupant, with regard to compliance hereunder, shall not relieve any party of his direct responsibility under this chapter.

§ 136-3944. Enforcement.

The Code Enforcement Officer shall enforce the provisions of this chapter as well as anyone who is appointed by the Town Council to enforce the provisions thereof.

