

Town of Milton

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ORDINANCE NO. 2015-008

AN ORDINANCE TO REPEAL TOWN CODE CHAPTER 164 "RENTAL LICENSES" AND REPLACE WITH "RENTAL PROPERTIES"

WHEREAS, Section 29(a)(1) of the Town Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, Section 29(a)(29) of the Town Charter of the Town of Milton vests power in the Town Council "to license, tax and collect fees annually for any and all municipal purposes (including the cost and expenses of advertising to the Town) of such various amounts as the Town Council from time to time shall fix from any individual, firm, association, or corporation carrying on or practicing any business, profession, or occupation within the limits of the Town..."; and

WHEREAS, the Town of Milton currently has its Ordinances providing for regulations of rental properties;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring therein, that the following revisions hereby replace Chapter 164 of the Town Code:

Chapter 164. RENTAL PROPERTIES

GENERAL REFERENCES

Bed-and-breakfasts See Ch. 76.

Housing standards See Ch. 136.

Addendum – Rental Properties Checklist

§ 164-1. Definitions.

Any word or term not defined herein shall be used with a meaning of standard usage. The following words or phrases, as used in this chapter, are defined as follows:

AGENT

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

A. Make, contract for, and authorize necessary repairs to the residential rental 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.

LANDLORD

The owner or agent of real property who offers the residential rental unit to others for a defined term including month to month in exchange for monetary compensation or other considerations or both.

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 Breakfasts, Hotels, Inns, or Motels.

TENANT

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

§ 164-2. License and registration required.

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 chapter.

§ 164-3. License fees.

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

§ 164-4. Application procedures.

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 the license fee shall have been paid in full. Each applicant shall give the following information:

- A. The property owner's name.
- B. The address and telephone number of the property owner.
- C. The property address to be rented (street name, block number, and unit number, if any).
- D. The name, address and telephone number of the agent, if any.
- E. The number of sleeping rooms provided.
- F. If the applicant is a partnership, the names and addresses of the individuals composing the partnership.
- G. If the applicant is a corporation, the names and addresses of the principal officers of the corporation.
- 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.
- I. A statement that the applicant:
 - (1) Shall comply with all laws and ordinances of the Town of Milton.
 - (2) Shall provide in each such rental unit a functioning smoke-detection device and those other safety devices required by the State Fire Marshal and as enumerated by Subchapter IV, Chapter 66, Title 16 of the Delaware Code.
 - (3) Shall notify the Town of Milton in writing within 30 days after any change in the above requirements.

§ 164-5. Certification.

A. Upon receipt of an initial license application for a subject property under provisions of this chapter, the Town Administrator or his/her designee shall then within 10 business days perform an inspection of the residential rental unit to determine whether such property complies with the applicable provisions of the Town Code of Milton (Chapter 136 Housing Standards § 136-11 through and including § 136-23). The Town Administrator or his/her designee shall then issue a report of his/her findings. Any deficiencies noted shall be noticed and corrected pursuant to Section 136-30 of the Town Code. No license shall be issued if the premises and building do not comply with the applicable provisions within the Town Code of Milton.

B. Once a residential rental unit has received and passed an initial inspection, the landlord shall, along with the application for the annual license, certify the residential rental unit is in compliance with the prescribed standards as defined within the provisions of the Town Code of Milton, in order to effectuate the annual license renewal.

C. Any license allowed to lapse shall be considered an initial application and subject to inspection.

§ 164-6. Issuance and expiration.

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

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. The landlord shall permit the Town Administrator or his/her designee, upon adequate notice to the landlord to provide notice to the tenant, to inspect all premises governed by this chapter to determine if a residential rental unit is operated on the premises and/or to determine compliance with the provisions of this chapter, and shall fully cooperate with such inspections. The landlord shall make reasonable efforts to notify tenants of planned inspections of their rental units to the extent required by Delaware state law.

B. The landlord or his/her designee shall be present on the premises during inspections; however, failure of a landlord or his/her designee 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 landlord to make sure the subject property is ready by the time the inspector arrives on the site.

(1) If an inspection needs to be cancelled or rescheduled, the landlord shall notify Town officials no later than 4:00 p.m. on the business day prior to the inspection.

(2) If the inspector arrives on site and the subject property is not ready and the inspection was not properly cancelled or rescheduled, a non-cancellation fee shall be paid at Town Hall before the inspection may be rescheduled.

(3) When conditions of a subject property are such that cause more than one follow-up inspection, for the purpose of ensuring compliance, a fee as provided on the Town fee schedule per inspection shall be imposed.

D. Failure of a landlord to comply with any of the requirements of this section shall subject the landlord to suspension or revocation of license, in addition to other penalties provided for in this chapter. 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.

§ 164-8. Suspension or revocation of license.

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

- (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;
- (2) Misrepresentation or false statement contained in the application for the license;
- (3) Delinquency in payment of any taxes, fees, fines, penalties, interest or assessments due the Town of Milton; or
- (4) If by complaint filed with the Code Enforcement Officer, an inspection finding a residential rental unit does not comply with Chapter 136 Housing Standards (§ 136-11 through and including § 136-23) of the Town Code of Milton. For a finding that the structure is unfit for human occupancy or use, is unsafe, or has unsafe equipment, correction action shall be in accordance with Section 136-30 of the Town Code.

B. The Town Administrator or his/her designee, upon revocation or suspension, shall state the reasons, in writing to the landlord, and specify the particular grounds for such revocation or suspension and designate a timeframe for corrective action to occur in accordance with Section 136-30 of the Town Code.

§ 164-9. Appeals.

Any person aggrieved by a decision of the Town Administrator or his/her designee may, within 15 days, take an appeal to the Town Council by giving written notice of his or her election so to do and the reasons therefor to the Town Hall, and, upon the appellant's payment of a fee, if any, as may be established in the currently effective Town of Milton Fee Schedule, the Town Administrator or his/her designee 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 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.

§ 164-10. License to be posted and Chapter to be provided.

A. 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 residential rental unit, it is sufficient if a copy of the license is provided the tenant.

B. The landlord shall provide a copy of this chapter to each tenant prior to the tenant taking possession of the residential rental unit.

§ 164-11. Tenant identification.

Licensees are required to provide names of tenants occupying residential rental units upon request of the Town, for the purpose of verifying compliance with Chapter 136.

§ 164-12. Transferability.

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

B. No license is transferable. Upon sale of the residential rental unit, the new owner shall file an application for a new rental license accompanied by the appropriate fee as established in the effective

Town of Milton Fee Schedule. The Town of Milton shall not issue a license until an inspection has been performed and residential rental unit deemed in compliance with all provisions of the chapter. However, notwithstanding the foregoing, the new landlord may file a certification that the residential rental unit is in compliance with this chapter, rather than have the residential rental unit inspected, if an inspection by the Town or a Delaware licensed home inspector, has occurred within the past three years, and is provided to the Town.

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

§ 164-13. Violations and penalties.

A. No person, corporation or other entity shall engage in, carry on, aid or assist in the business, occupation, or activity of providing a residential rental unit without having first obtained an annual rental license for said residential rental unit within the Town of Milton.

B. The Town of Milton may request verification from any property owner of record said property's status in the form of a declaration of property status as prescribed by the Town of Milton. Upon such a request, the property owner of record shall return the verification on the prescribed form of declaration to Town Hall within 30 days of the request being sent.

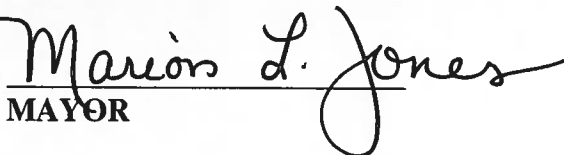
C. Any person, corporation or other entity violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor violation of this Chapter and, upon conviction thereof, shall be fined not less than \$99 nor more than \$300, plus costs, including Town Solicitor's fees and Victim's Compensation Fund assessment for each offense, and for the purposes of this chapter, a separate offense shall be deemed to be committed each seven-day period during or on which a violation occurs or continues.

The effective date of this Ordinance shall apply immediately to any new applications. All licenses valid through December 31, 2015, shall be eligible for certification under § 164-5.

SYNOPSIS

This Ordinance repeals and replaces Chapter 164 of the Town Code relating to rental properties. That Chapter already identifies the process for obtaining and rental license; the amendment merely provides the guidelines for inspections of rental properties.

I, **MARION L. JONES**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 13th day of May, **2015**, at which a quorum was present and voting throughout and that the same is still in full force and effect.


MAYOR